

The Complete Constable.

Dire~~c~~t~~i~~ng

CONSTABLES, HEADBOROUGH~~S~~,
TITHINGMEN, CHURCH-WARDENS,
OVERSEERS of the POOR,
SURVEYORS of the HIGHWAYS,
and SCAVENGERS,

In the

Duty of their Offices, according to the
Power allowed them by the Laws:

WHEREIN

The CONSTABLE's Duty, relating
to the Passing of Rogues, Vagabonds, and
sturdy Beggars, is fully set forth.

To which are added,

An Abstract of an ACT, 12 & 13. R. A. relating
to Rogues, Vagabonds and sturdy Beggars.

— Of an ACT, for preventing Riots, &c.

— Of an ACT for punishing Robberies com-
mitted in Houses.

— Of an ACT for preventing Mischiefs by Fire.

The Sixth Edition, with Additions.

In the *SAVORY*:

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TO ALL
OFFICERS

WHOM

This TREATISE may
Concern.

SIRS,

There needs no Apology (*I hope*) for compiling this Treatise for your Use and Direction, it being absolutely necessary to publish New, or reprint the Old so often as the Statutes (*by which the Duty of Constables, &c. is appointed*) require it: And for that there have been many Statutes made since her late Majesty's Reign, and several since the former Impression; it was therefore necessary for your

To all Officers.

further Information, to make a New Edition of this Book, and to add so much of all the late Statutes as concern your several Offices, down to this Time, with such other Rules and Observations as may be useful to You ; not doubting, but You will therefore think our Labour well continued, our Observations very profitable, and our Title most deserving to be,

A Complete GUIDE for
CONSTABLES, &c.

From Yours, &c.

R. G.

THE

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fore
our
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THE T A B L E.

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THE

The Newest
G U I D E
 FOR
Constables, &c.

C H A P. I.

*Of the Definition of the Title
 CONSTABLE; of the
 several Names and Kinds of
 Constables; of their Fitness,
 Oath and Authority.*

BEFORE I set down the Duty and Of The Derivation of Constables, it may be expectation of ed that I should shew something of the the Consta- Derivation and Antiquity thereof; and ble's Title, tho' there be some Difference about it, yet it is agreed by most, That the Word Constable is compounded of two Saxon Words, Lamb. fo. signifying a Prince or King, and so Coning- 5. 4th Part stable (by Contraction Constable) is as much of Coke's as to say, The Prop or Stay of the King. Inst. fo. This Word is diversly us'd in the Common Law: As the Constable or Marshal of England, Staundf. Pl. Coron. fo. 65. which

Office is discontinted, and why it is so, see Dyer fo. 258. num. 39. The Constable of the Tower, Staundf. Pl. Coron. fo. 152. 1 H. 4. c. 13. Stow's Annals, p. 812. The Constable of the Exchequer, 51 H. 3. Stat. 5. Constable of Dover Castle, Camb. Brit. p. 239. West. 1. ca. 7. Anno 3 Ed. 1. Constable of the Forest, Manwood, pars prim. cap. 13. Stat. 32 H. 8. ca. 38.

But the Constables for whose Use this Guide is intended, are either Constables of Hundreds, otherwise High-Constables, or Constables of Towns, Boroughs, Parishes, Tithings, &c. called Petty Constables, Headboroughs, Tithingmen, &c.

When Constables, &c. were first appointed.

Lamb. 5. **T**Hese High Constables (as some say) cap. 9. were first ordained by the Statute Raft. 379. of Winchester, for the Oversight of Armour, Smith de Watches, Highways, Hue and Cry, and RepAngl. the like; and afterwards Petty Constables 1. 2. c. 25. for their Aid and Assistance were ap- Dalton's pointed.

Just. of P. But others think, that by the ancient c. 16. fo. Common Law they were Conservators of 46. the Peace within their several Hundreds and Limits. 12 H. 7. fo. 18. Crom. 6, &c.

See Dalton as before. That the Hundreds were derived out of Counties first, under the Government of Sheriffs; which growing too great for their Care, were divided into Hundreds, and that in every Hundred was ordained a Conservator of the Peace, who was call'd

See Lamb. the High Constable. That these Hundreds also enlarging, Boroughs and Towns, Const. p. 9.

or Tithings, (that is to say, a Tenth Part) were appointed, and within them also was ordained a Conservator of the Peace, or Petty Constable. Others reckon, that first the Tents or Tithings were ordered, and after them were made up Hundreds, and of these Counties or Shires; so that there is no Part of the Kingdom that lieth not within some County, of which Counties or Shires one with another, there are reckon'd in *England* XXXVII, besides XII in *Wales*.

But to reckon either way it appears, *High Constables.* and so at this Day it continues, That High Constables are properly for the whole Hundred, Rape or Wapentake; and their Power extends over the whole, which do mostly comprehend many Parishes, Tithings and Villages.

That Petty Constables are for particular Towns and Parishes within the Hundred, and consequently for the Ease and Assistance of the High Constable; but their Authorities are only in such particular Towns or Parishes: And,

That Bursholders, Tithingmen, Headboroughs, &c. are for particular Boroughs, Hamlets, Villages and Tithings, to which their Authority is limited.

And Note, It was the Opinion of the *Nota.* learned Sir *Francis Bacon*, That tho' the High Constable's Authority hath a more ample Circuit, he did not perceive that the Petty Constable is subordinate to him, from any Commandment that proceeds from his own Authority: But it was used, That the Warrants and Precepts of the Justices be delivered to the High Constables, who being few in Number, might better attend the Justices; and then the High Constables by virtue of such War-

rants (not their own Authority) make their Precepts over to the Petty Constables. *Bac. C. T.*, pag. 22, & 30. And this also seems only to be in some Cases, as where they are summon'd to attend the Justices to make their Presentments, and the like.

Nota.

This appears to be the general Method, tho' in some large Parishes and particular Places, there are and may be several Officers call'd by the several Names of *Constable*, *Headborough*, and the like : And tho' these inferior Officers be call'd by several Names, yet their Offices in their several Precincts and Places are in effect one and the same, the Name being only chang'd.

Some Dis-
tinction
tweene
these Offi-
cers.

However the Office of a Constable seemeth to be distinct, and of greater Authority than theirs ; and some have held, That Headboroughs, Bursholders, Tithingmen, &c. being appointed in a Town or Parish where is also a Constable, that they cannot principally meddle, because (in Comparison of them) the Constables are Head-Officers, and the others but as Assistants to the present Constable ; tho' in the Constable's Absence they are chiefly to attend the Service : And that there are many Things which the Constable may do, wherein such Headboroughs, Bursholders, &c. cannot meddle.

See *Dalton's Justice of the Peace*, ca. I. fo. 34. *Lamb. pa.* 4, 6, 9, 51, 52, 53, 54, 55, &c. See i *Jac. ca.* 7.

Where

their Au-
tority is
all one and
the same.

And yet in Towns and Places where there are no Constables, but only Headboroughs, Bursholders, Tithingmen, &c. there their Power and Authority is declared to be equal to the Power of a Constable, and in all such Cases and Things, their all one and Office and Authority are in a manner all one.

one. And he that is sworn the Tithingman, &c. of any Place, is in effect (with respect as aforesaid) the Constable of the Place: And that when any Statute doth appoint the Constable, or other inferior Officers to punish Offenders, in such case the Bursholder, Headborough, Tithingman, &c. may do it, they being supposed to be inferior Officers to the Constables.

By the Statute 14 Car. 2. cap. 12. it is ordained, That upon the Death or Removal of any Constable out of the Parish, any two Justices may elect and swear a new One, to continue till the next Leet or Quarter-Sessions; and then the Steward or Justices to approve of him, or appoint another: And if any such Officer continue in his Office above a Year, the Justices of the Peace may discharge him and put in others till the Lord of the Manor hold a Court.

In some Cases then the High Constable Nota.
may and must do more than the Petty Constable, &c. And in some Cases they have equal Authority, and in other Cases they are distinct; I shall therefore endeavour to shew what all Constables, either High or Low, Bursholders, Headboroughs, Tithingmen, &c. may and must do, what is their common or equal, and what their special or particular, Duty and Authority. But note, That where it is generally spoken of Constables, there it is also meant as to Headboroughs and Tithingmen, &c. and where there is any Difference I shall distinguish it.

But first, I will speak of the Fitness and Manner of their Choice, and of the Oath each of them must severally take, for the due Execution of his Office. And observe Nota.

**Constables
when and
where to
attend.**

that Part of their Office and Duty consists in the Attendance of Court-Leets, Justices of the Peace and Coroners, for the executing of their Warrants within their several Precincts ; and also to attend upon, aid, and assist, and execute the Warrants of Judges of Assize, at their Assizes and Gaol-Delivery ; and the Justices of the Peace at the general and special Sessions, and other Meetings, to make Presentment upon Oath of Things within their Knowledge, and according to Articles exhibited to them for that Purpose ; of which more in its Place.

*Of the Choice and Fitness of
Constables, and of the Oath to
be taken by them.*

**Honesty,
Ability,
and Un-
derstanding
required.**

They ought to be Men qualified for the Execution of their Office, and therefore to be chosen out of the honestest, ablest, and most understanding Men, not feeble with old Age, nor otherwise weak, sick, poor or impotent ; that so the Office may be perform'd truly and diligently, and without Malice, Affection or Partiality.

**Poverty
and Ignor-
rance to be
avoided.**

This Office ought not to be put upon the poorer Sort, for they are usually most ignorant and fearful, and less able to attend this Office ; their Necessity requiring them to mind their own Trade and Employment : And 'tis to be understood, that Bac. p. 25. Constables have no Allowance, but are bound to perform their Office gratis.

**Some Pro-
fessors ex-
empted and men,** Such who in respect of some other Offices, Callings, or Professions, as Clergy, Sheriffs, Lawyers, Attorneys, Physicians,

sicians, and such like, are presum'd to be to be ex-
otherwise so much employed, as not to be *caſed*.
at Leisure to attend upon this Office, so
much as is required, and therefore not to
be chosen.

Also Women, whether Maids or Wi- *Women, I-*
dows, ought not to be chosen; neither deots and
Madmen, or Ideots, nor Infants under 21 Infants.
Years of Age, nor old Men above Seventy.

Therefore it is not a good Custom ge-
nerally, that this Office should go by Te-
nure of Houses, for so it may fall upon a *1 Cro. fo.*
Woman, (which is not sufferable) but it 283.
may be a good Custom, That every Man,
sufficiently qualified, shall serve or find
one to do it.

These Officers are to be chosen in re- *In what*
spect of their Habitation or Residency, and respect
not in respect of their Lands ; for a Man *they are*
may have Lands out of the Hundred, Pa- chosen.
rish or Tithing, &c. But he ought to serve
only in the Place where he lives.

The High Constables are usually chosen *High Con-*
and sworn at the Quarter-Sessions of the *stables*
Peace for that County ; but they may be *when and*
either chosen or sworn out of the Sessions, *where chose*
and if they be chosen out, it must be by *and sworn.*
the greater Number of Justices of that *Dalt. ca.*
Division where they dwell, and in the like *16. fo. 46.*
Manner also they may be removed. *Lamb.*

And note, That two Justices of the *Just. 190.*
Peace, the one being of the *Quorum*, may
appoint the High Constables for *Wales*, by
the Stat. *34 H. 8. ca. 26.*

The Petty Constables are most com- *Petty Con-*
monly chosen and sworn in the Court Leet, *stables*
and sometimes by the Justices of Peace at *when and*
their Quarter-Sessions. *Dalton Just. fo. 47. where chose*
48, 336. So that High Constables are by *and sworn.*
Appointment of the Justices, and Petty

Constables elected by the People, unless in some Cases, as is after set down.

If a Constable lawfully qualified and chosen, shall refuse to be sworn, the Justices of Peace may bind him over to the Assizes or Sessions, and he may be there indicted and fined, and if he be chosen in a Leet and refuse, he may be fined in that Leet for his Contempt. *Dalton* 47. *1 Cor.* 409.

*Refusing
to serve.*

As one lawfully qualified and chosen may not refuse, so one that is not rightly qualified, and inabled, may refuse, (if he be chosen) and shall be discharged by Law, and another may be appointed in his Place. *Dalton* *J. P.* fo. 322.

*Removal
of unfit
Persons.*

And it is said to be a Forfeiture of the Leet, where the Leet chuses unable or unfit Constables, and their Choice is void, and upon Complaint made to two Justices of the Peace, they may remove such unfit and unable Person, and choose and swear some other. *1 Bul.* 174. *Dalt. ca. Rep.* fo. 21 16. fo. 47.

But in other Cases it's said the Justices are not to meddle either in Sessions or out of Sessions. But leave it to the Custom of the Court-Leet. *Style's Rep.* 362.

*Constable's
Deputy.*

Note, Also by the better Opinion it is held, That the Constable of a Hundred or Parish, may not make a Deputy for the exempting of his whole Office; but he may depute one, to do many Things under him, and in his Name, that relate to his Office, yet so that the Constable shall be responsible, and answer for what's amiss, *Bul.* 77, 78.

Yet sometimes one chosen, hath nam'd a fit Person for his Deputy, who upon his Acceptance hath been sworn, and in this case

case it's said the Deputy shall answer for himself. i Cro. 409. Crawley's Case.

By an Act *Primo Willielmi & Mariae, Protestant*
 That if any Protestant Dissenter from the *Dissenters*
 Church of *England*, shall then after be *being cho-*
chosen High Constable, Petty Constable, sen Consta-
Church-warden, Overseer of the Poor, or bles, &c.
 to any other Parochial or Ward-Office; *may make*
 and shall scruple to take the Office upon *a Deputy.*
 him in regard of the Oaths, or any other
 Matter to be done in respect of such Of-
 fice, such Person may execute the said
 Office by a sufficient Deputy, by him to be
 provided, who shall comply with the Laws
 on this behalf. Provided such Deputy be
 approved and allow'd of in such manner,
 as the Principal should have by Law been
 allowed and approved.

After the Constable, Headborough or
 Tithingman is chosen, he must take an
 Oath for the due Execution of his Office.
 The Form whereof is as followeth:

The Form of the Constable's Oath.

YOU shall well and truly serve our So- *The Oath*
 vereign' Lord the King, in the Office of at length.
 a Constable, and shall see the King's Peace be When the
 well and truly kept to the utmost of your Power. Constable
 You shall Arrest all such Persons as in your is sworn
 presence shall ride or go armed offensively, or in Leet,
 shall commit or make any Riot, Affray, or then are
 other Breach of the Peace. You shall do your added
 best Endeavour (upon Complaint to you made) these
 to apprehend all Felons, Barrators, or Rioters, Words,
 or Persons riotously assembled, and Persons ma- [And the
 king Affrays; and if any such Offenders shall Lords of
 make Resistance with Force, you shall levy Hue the Ma-
 and Cry, and pursue them until they be taken. nor.]
 You shall do your best Endeavour that the Watch

in your Town be duly kept, and that Hue and Cry be always pursued according to the Statutes; and that the Statute made for Punishment of Rogues, Vagabonds, and Night-Walkers, and such other idle and wandering Persons coming within your Liberties, be duly put in Execution. You shall have a watchful Eye to such Persons as shall maintain or keep any Common House or Place, where any unlawful Games or Plays are or shall be used; as also to such Persons as shall frequent or use such Places, or shall exercise or use any unlawful Games or Plays there, or elsewhere, contrary to the Statute. At your Assizes, Sessions or Leet, you shall present all and every the Offences committed or done contrary to the Statutes made and provided for the Restraint of inordinate Haunting and Tippling in Taverns, Inns, and Alehouses; and for Repressing of Drunkenness and Profane Swearing, You shall true Presentment make of all Bloodshedding, Affrays, Outcries, Rescues, and other Offences committed or done against the publick Peace within your Limits. You shall well and truly execute all Precepts and Warrants to you directed from the Justices of Peace, and others in Authority in this County. And you shall well and truly, according to your Knowledge, Power and Ability, do and execute all other Things belonging to the Office of a Constable, so long as you shall continue in the said Office :

So help you God.

The Oath is many Times contracted in Form, and administred thus :

The Oath
in short.

YOU shall Swear, That you shall well and truly serve the Office of Constable [or of a Titlingman, &c.] for the Town [or for the Parish or Titling, &c.] of A. for the next

next Year [or half a Year, as the Time is to be] and until another be sworn in your Room, or you shall be legally discharged thereof: And that you shall from Time to Time well and truly do and execute all Things belonging to the said Office, according to the best of your Knowledge:

So help you God.

CHAP. II.

Of the several Duties incumbent on all Constables after they are sworn, according to the particular Branches of their Oath.

BY the Form of the Constable's Oath *The Heads* it appears, that he is sworn to some *of the* Things in general, and to others in particular.

1. In general, to serve the King [and if in a Leet, the Lord of the Manor] in the Office of a Constable: This extends to his whole Office.

2. In particular, to see the King's Peace to be kept and preserved.

3. To arrest such Persons as shall in their Presence ride, or go offensively arm'd, or commit any Riot or Affray, &c.

4. Upon Complaint, to apprehend all Felons, Barrators, Rioters, &c. and upon Resistance to levy Hue and Cry, and pursue them.

5. To see the Watch be duly kept in the Town.

6. To see that the Statute for Punishment of Rogues, Vagabonds, idle Persons, and Night-Walkers, be duly put in Execution.

7. To

7. To have a watchful Eye upon Persons keeping unlawful Gaming-Houses, and such as frequent the same, and use any unlawful Games and Plays there, or elsewhere.

8. At the Assizes, Sessions, or Leet, to present the Offences of Tippling, Drunkenness, and profane Swearing ; against which the Statutes have provided.

9. To present all Bloodshedding, Affrays, Outcries, Rescues, &c.

10. To execute truly all Precepts and Warrants to them directed from the Justices, and others in Authority. And by Stat. 7 & 8. W. 3. Constables (at Michaelmas Sessions) are to give in to the Justices a List of the Names of Persons qualified to serve on Juries ; under the Penalty of 5 l.

The rest is in general, to do and execute all other Things belonging to the Office of a Constable, to the best of his Power, Knowledge and Ability ; and this again extends to his whole Office.

Particulars of the Oath first treated of. I will first treat of these Things which are particulariz'd in his Oath, and next endeavour to shew all such Things as belong to his Office.

Note, That the Statute of 25 Car. 2. ca. 2. which appoints Officers and others to take the Oaths of Allegiance and Supremacy, &c. doth not extend to High Constables, Petty Constables, Headboroughs or Tithingmen ; nor to Churchwardens, Overseers of the Poor, or the like inferior Civil Officers.

Composition of the Office in two Parts. This Office of Constable, &c. seems to be made up of two Parts ; the one derived from the ancient Common Law of the Nation, the other from divers Statutes and Acts

Acts of Parliament : His Authority also is several, in some Things acting of himself, without any command from others, and this is said to be *ex Officio*; and in other Ex Officio things not to act without a Commandment, *cio. Warrant, or Precept from another Person.*

It is in his Power, by Virtue of his Office, to preserve his Majesty's Peace.

1. In foreseeing and preventing what directly will, or probably may, be an Occasion of the Breach thereof.

2. In quieting such as are actually breaking the same.

3. In punishing such as have already broke the Peace.

First, *For the preventing the Breach of the Preventive Peace*, he, *ex Officio*, without a Warrant ing and from a Justice, by Night or by Day, may preserving arrest suspected Persons, Strangers, and the Peace, others that walk in the Night, and sleep *ex Officio*. in the Day. He may stop all such Persons as go or ride unlawfully arm'd, and take their Arms from them, and commit them to Prison; and if he be inform'd of such as haunt Bawdy-Houses, or other suspicious Places, or of any lewd Man or Woman that are together, and about to be incontinent and lewd, he may take Assistance with him and arrest them. 13 Ed. I.

4. Cromp. 6. 12 H. 7. 18. Fitz. Just. 200.

If any be about to make an Assault or *His Assay*, the Constable may in the King's Authority a-Name command them to forbear and de-*bout an* apart, on Pain of Imprisonment, Dalt. fo. *Assay*.

33. And this he ought to do, or he may be fined for his Neglect, if it be presented by the Inquest at the Sessions of the Peace.

Cromp. 146.

If

To put the Affrayers in Stocks, &c. If they will not surcease, but still threaten to beat, hurt, or kill one another, and in Fury or Passion, he may commit the Offenders to the Stocks, or in other safe Custody, until such Time as he can carry them before some Justice of the Peace, to find Sureties for their Behaviour. *Dalt. ca. 1. fo. 4, 5. 118, 340. 3 H. 4. 9, 10.* But if there be nothing but Words, it seems the Constable may not lay Hands on them. *Dalton 34, 158.*

He may require Assistance. Secondly, If they draw Weapons, or give Blows, the Constable may command others to assist him ; and if the Affrayers make Resistance against him, he may justify the Beating or Wounding of them, and Setting them in the Stocks ; and it shall be Murder in the Affrayers, if they kill the Constable, or any that assist him : *Note,* And if any Person be dangerously hurt in the Affray, the Constable may arrest the Offender, and carry him to a Justice of Peace, who is either to bail him, or *may arrest* commit him to Prison, until it be known whether the Party hurt will live or die. *der. 4 Co. 4. 9 Co. 66. Lamb. 135. Dalt. 33.*

Affray upon the Constable. If any Affray or Assault be made upon the Constable, he may defend himself, and put the Parties in the Stocks, till he can carry them to a Justice of Peace, or to the Gaol ; and he may call others to assist him to do this, who may justify the doing of it. *Dalton 35. Kitch. 69.*

Hurting the Constable or his Assistants. If a Constable or any of his Assistants shall be hurt in an Affray, they may have good Remedy ; but if the Affrayers be hurt in Resistance, they shall have no Remedy against them. *Lamb. 141, 142. 21 H. 7. 21.*

Thirdly,

Thirdly, After an Affray, or Breach of *Warrant* the Peace is over, it is said, That the *where re-*
Constable, without a Warrant, cannot ar-*quisite.*
rest the Affrayers, except some Person be
dangerously hurt, as he may before or
during the Affray. 38 H. 8. 6.

For it's said that if the Affrayers, when *Pursuit of*
they see the Constable come to arrest *Affrayer.*
them, shall fly into a House (by which it
seems the Affray is over) the Officer may
in fresh Pursuit of them, *ex Officio*, break
open the Doors and apprehend them; and
if they fly into any Franchise within the
County, he may follow and take them;
nay, tho' they fly into another County,
yet he may pursue them, and cause them
to be taken there; but then in this last
case, out of the County, he can meddle
no further, but only as Assistant to the
Constable there, to carry them before
some Justice, to cause them to find Sure-
ties, and so much every private Man may
do. *Dalton* 28, 29, 33, 34. *Lamb.* 135, 143,
144. *Cromp.* 149.

And it is also said, That if any Affray *Affray in*
be in a House, and the Doors are shut, *a House,*
and tho' none of the Parties have taken *and the*
any hurt; yet the Constable may *ex Of-* *Doors shut.*
ficio, break into the House, to see the
Peace kept. See *Dalton*, ca. 8. fo. 33, 34
and *Lamb.* 185.

It has been held that the Constable
might *ex Officio*, take Sureties for the Peace,
Trin. 35 *Eliz.* *Skerret's Case*: But it was
then the Opinion of others that he ought
to carry the Offender before a Justice,
and this is the usual and safest Way. And
'tis held, that tho' a Constable may do
what he can to keep the Peace; yet he
cannot at the Request of any Man, take
Surety

Surety of the Peace. *Cromp.* 6. 12 H. 7.
fo. 18. a. 3 H. 4. 9, 10. *Kitchin* fo. 69. a.
Dalton fo. 4, 5.

*Arresting
Persons of-
fensively
arm'd.*

Secondly, For the Arresting such Persons as ride or go offensively arm'd, you must observe, That if any Person shall ride or go arm'd offensively, before his Majesty's Justices, or any other his Officers or Ministers, in the Time of executing their Office, or in Fairs or Markets or elsewhere, by Day or by Night, in Affray of his Majesty's Subjects, and Breach of the Peace, or wear or carry any Daggers, Guns or Pistols charged; the Constable upon Sight thereof, may seize and take away their Armour and Weapons, and have them appraised, as forfeited to his Majesty; and may also carry the Persons wearing them before a Justice, to give Surety to keep the Peace.

2 Ed. 3. ca. 3. 7 R. 2. 13. 20 R. 2. c. 1.
Dalton Just. ca. 9. fo. 35. and 159.

*Who may
be arm'd,
and when.*

But his Majesty's Servants in his Presence, Sheriffs, and their Officers, and other his Majesty's Ministers, and such as assist them to execute their Office, and all Persons pursuing Hue and Cry, in Case of Felony, and other Offences against the Peace, have lawful Authority to bear Armour or Weapons. *Dalt.* ca. 9. fo. 36. 9 Co. fo. 72. 3 Co. Inst. fo. 162.

The Constables have further Authority to search for Arms; but this is by Warrant; of which more hereafter.

*Suppres-
sing of Ri-
ots, &c.*

As to Riots, Routs, &c. note, That Sheriffs, Constables, and all other his Majesty's Officers, shall suppress Rioters and imprison them, and all other Offenders against the Peace. 17 R. 2. ca. 8.

Assistants.

All his Majesty's Liege People upon Warning, shall be assistant to the Justices,

Com-

Commissioners, Sheriff and Under-Sheriff, upon Pain of Imprisonment, and to make Fine and Ransom to his Majesty. *Stat. 2 H.*

5. 8. *Dalton J. P. ca. 46. fo. 114.*

It is to be noted, That when threē or *What may* more Persons do assemble themselves to *be called a* gether, to and with the Intent to beat or *Riot, Rout* maim a Man, to pull down a House, Wall, or *unlaw-* Pales, Hedge, or Ditch, wrongfully to *ful Assem-* claim or take Common, or a Way in a *bly.*

Ground ; to destroy any Park, Warren, Dove-House, Pond, Pool, Barn, Mill, or Stack of Corn, or to do any other unlaw-
ful Act, with Force and Violence, and a-
gainst the Peace, and in manifest Terror
of the People ; and if they only meet to
such a Purpose or Intent, although they
shall after depart on their own Accord,
without acting any Thing ; yet this is an
unlawful Assembly : And if after such a
Meeting, as aforesaid, they move forward
towards the Execution of their Intent,
tho' they put it not in Execution, yet it is
a Rout, and if they do put their Intent
in Execution, and do any such Thing
indeed, then 'tis called a Riot.

And if three, four, or more, do enter
into Lands with Force, upon the Possession
of another, tho' their Entry be lawful, yet
it's a Riot, because 'tis prohibited by the
Stat. to enter into Lands and Tenements
with Force, or a Multitude of People.
5 A. 2. 7. 15 R. 2. 2, &c. *Cromp. 68. Dalt.*
fo. 57. 8. Lambert 179. 81 of 3d. pt. and
Instit. fo. 176.

And if any Constable, or any private
Person of the same County, do refuse to
attend and assist the Justice of Peace upon
Request, to remove a Force, or to convey
the Parties to the Gaol, he may be im-
prison'd

prisoned for his Neglect, and make fine to his Majesty. 15 R. 2. cap. 2. Dalt. ca. 22. fo. 57.

How they depend one another. If therefore three or more meet with an evil Intent to act, 'tis an unlawful Assembly; if they continue and move forward, 'tis a Rout; and if thereupon they commit any Mischief, 'tis a Riot.

Exception. Yet it's said there may be a Rout, where there was no unlawful Assembly or evil Intent, as in the case of a Man's Going or Riding to the Sessions, Market, Fair, or other Assembly of Company with his Servants in Harness, tho' he hath no Intent to fight or commit any Riot, yet this is a Rout, by the manner of his coming; for the Statute saith, That no Man shall bring any Force in Affray of the Peace, nor shall go armed in Fairs, Markets, or elsewhere, upon Pain of Imprisonment, and Forfeiture of his Arms. Statute 2 Ed. 3. 3.

Punishment thereof. And all these three, Riot, Rout, and Unlawful Assembly, are punishable and fineable to his Majesty.

Observations concerning Riots, &c. And these Things are to be observed as to all, That the unlawful Assembly and Rout must be of three or more, as must also a Riot, which is the most dangerous of all three, and consequently most to be punish'd. Stat 13 H. 4. 7. Dyer 210.

Three Persons. That an Assembly of three or more, which is not to the Terror of the People, nor to do some Act with Force and Violence against the Peace, is not unlawful nor prohibited by any of the Statutes.

May-Games & Sports. So it's said, that the Assemblies, that be used upon *May-day*, to fetch in *May-boughs* or Flowers, so Assemblies at Church-ales, *Whitson* or *Midsummer-ales*, so Assemblies at the fetching Home, setting up, or dancing

cing about a *May-pole*; so the Assemblies at the Bating of a Bull or Bear, or at the moving or making of Dole or Revel-Mead, so the Assemblies of Minstrels and their Fellows at certain Places and Times allowed by old and ancient Customs, are not unlawful. See *Pulton de pac. Regis & Regni tit. Riot, &c.*

But notwithstanding such Companies *Sports may* fall into Riot by quarreling and ta-^{become} king of Parts, and such Siders and Parta-^{Riots.} kers to the Quarrels shall be adjudged Rioters, but not the Residue. 22 H. 6. 37.

Thirdly, The Constables are sworn up- *Appre-*
on Complaint, to use their best Endeavour to benden of
apprehend all Felons, Barrators, &c. and Felons.
upon Resistance to levy Hue and Cry, and
pursue them, &c.

The Law accounts any Offence *Felony, Felons,*
that is in Degree next unto *Petit Treason, what.*
and comprifeth divers Particulars under it: As *Murther, Theft, Sodomy, Rape, wilful*
Burning of Houses, and the like; also Robbery,
which is a felonious Taking away of any
Man's Goods from his Person or Presence,
against his Will, Putting him in Fear, and
of purpose to steal the said Goods. *West.*
Sect. 60. tit. Indictment. Crompt. p. 32. 4 Co.
124. b.

Therefore such as commit such Felo-
nies be called Felons.

Barrators are Deceivers, and common *Barrator,*
Wranglers, that set Men at odds, and are what.
themselves never quiet. *Lamb. Eir. p. 342,*
saith, a Barrator is a vile Knave or Un-
thrift.

If Felons and Murderers be in a Town *Notice of*
or Village, and the Constable, Headbo-
rough, &c. have Notice of them, it is *ven to the*
their Duty *ex Officio, to gather Men toge-*
ther *Constable.*

ther and apprehend them. And if any Felon be taken, it is the Constable's Office to see him conveyed to Gaol. And if any Man will lay Murder or Felony to another's Charge, he may declare it to the Constable; and the Constable ought upon such Declaration or Complaint, to carry him before a Justice; and if by common Fame any Man be suspected with Cause, the Constable of Duty ought to arrest him, and bring him before a Justice to be examined. *Fitz. Just.* p. 201. 1 R. 3. 3. *Lamb.* 17.

Constables search. If any House be suspected for receiving or harbouring of any Felon, the Constable, upon Complaint or common Fame, may search both for the Felon and Goods stol'n. And so it's said any other Man, as well as an Officer, may arrest and keep in Hold such a Man, as he doth know to have committed any Felony. *Dalton* 289.

Constable to raise Hue and Cry. If any fly upon a Felony, the Constable ought to raise Hue and Cry to take him, and in the mean Time to seize his Goods, and to Inventory them in the Presence of honest Neighbours, for his Goods and Chattels are forfeited, if he be guilty; and in some Cases his Lands too. *Fitz. J. P.* 201.

Hue and Cry, what. Hue and Cry signifieth the Pursuit of one having committed Felony by the Highway; and if the Party robb'd, or any in the Company of one murdered or robb'd, come to the Constable of the next Town, and will him to raise Hue and Cry, or to make Pursuit after the Offender, describing the Party, and shewing (as near as he can) which way he is gone; the Constable ought forthwith to call upon the Parish for

for Aid, in seeking the Felon: And if he
be not found there, then to give the next
Constable Warning, and he the next, until
the Offender be apprehended, or at least *Warning*
until he be thus pursued to the Sea-side. *for fresh*
Bratt. l. 3. tract. 2. ca. 5. Smith de Repub. Suit.

lib. 2. cap. 20. Stat. 13 Ed. 1. cap. 3. 28 Ed.

3. cap. 11. 27 Eliz. cap. 13. Crompt. 160. b.

The Constables and Officers of every
Town, to which Hue and Cry shall come, *Search.*
ought to search in all suspected Houses
and Places within their Limits: And as
well the Officers, as all other Persons
which shall pursue the Hue and Cry, may
attach and stay all such Persons, as in *Suspected*
their Search and Pursuit they shall find to *Persons.*
be suspicious, and thereupon shall carry
them before some Justice of Peace of the
County where they are taken, to be ex-
amined where they were at the Time of the
Felony committed; and if any Default be
in the Officers, they may be fined by the
Justices for their Neglect. *Dalt. cap. 28.*
fo. 75.

No Hue and Cry shall be deem'd legal,
unless the Pursuit be both by Horse and Nota.

Foot. *27 Eliz. 13.*

And the Hundred where fresh Suit shall
cease, in case of Robbery, shall answer *Hundred*
Half the Damages to the Hundred wherein *fin'd* for
the Felony shall be committed, to be re- *not making*
covered in any Court at *Westminster* in the *fresh Suit.*
Name of the Clerk of the Peace of the
County wherein the Felony was commit-
ted; and here the Death or Change of the
Clerk of the Peace shall not abate the
Suit.

When in this Case, or where the Hun-
dred is chargeable for Robberies, Dama- Tax, *how*
ges to be levied.

ges are recovered against any one, or some few Inhabitants of the Hundred, and the rest refuse to contribute thereunto, two Justices of the Peace (one being of the *Quorum*) dwelling within or near the same Hundred, shall for the Levying thereof set a Tax upon every Parish within that Hundred, according to which the Constable and Headboroughs of every Town shall assess the particular Inhabitants, and levy the Money upon them by Distress and Sale of Goods, and deliver the Money levied to the said Justices, or one of them, restoring the Overplus to the Party distrain'd. 17 Eliz. 13.

*One of the
Felons ta-
ken.*

And note, That no Hundred shall be chargeable when any one of the Malefactors shall be apprehended; or when the Action is not prosecuted within one Year after the Robbery committed. 17 Eliz. 13.

Concerning Escapes, &c.

*Concerning
Escapes
suffered by
Constables.*

*Voluntary
Escape
made Fe-
lony.*

TH E voluntary Letting of a Felon to escape, before he be arrested for the Felony, is no Felony in the Party that suffereth him to escape: But if the Constable suffers one to escape, when he knows he hath committed a Felony; in such case he may be indicted and fined for Suffering the Escape.

And it's said, That if the Felon be under Arrest of the Constable, or any other, for Felony, or Suspicion thereof, and the Constable or other Person, who so hath him a Prisoner, voluntarily lets or suffers the Felon to go at Liberty where he will, this is Felony in the Gaoler, Constable, or other Person, that so letteth him escape;

but it is no Felony in the Prisoner, because he broke not the Prison.

But if such a Prisoner shall escape by Negligent the Negligence of his Keeper, and against Escape. his Will and Knowledge, then it is Felony in the Prisoner, because a Breach of Prison; and the Gaoler, Constable, &c. may be fined by the Judges or Justices for such Escape. Staundf. 32, 34. Dalton, fo. 272.
Bro. Escape 32. Dyer 99.

If a Constable or other Officer, voluntar- *Felon de-
ily suffer a Thief to kill, hang, or drown* *froys him-
self,* this is said to be an Escape and *self.*
Felony in the Constable: But if this be done unawares to the Constable, and without his Consent, then is such an Escape but negligent, and finable. And note, *Constable
That such a Thief so killing or drowning* *fined.*
himself, is said to be *Felo de se*, in Reference to the destroying himself. Dalton, fo. 272.

If a Man be arrested only on Suspicion *Where the
of Felony, and it appear afterwards there* *Constable
was no such Felony committed, then may* *may dis-
the Constable or Officer discharge the Pri-
soner; and it is no Escape where there* *charge the
was no Felony.* But on the Contrary, if one be arrested upon Suspicion, and there is really a Felony committed, and though after the Arrest the Officer is satisfied, that the Party arrested is not guilty, yet he cannot discharge him, but he must be set at Liberty by due Course of Law; for otherwise it will be a voluntary Escape and Felony, or at least fineable. Dalton, fo. 275. Cromp. 40.

If a private Person (as he may) in many Arrests Cases arrest another; as in Case of a dangerous made by Affray, Suspicion, or knowing one private to have committed Felony, or one that is Persons. appa-

apparently about to commit a Felony, or one that hath dangerously wounded another, or Night-walkers that are dangerously suspicious, &c. he ought to carry and deliver the Prisoner to a Constable, Headborough, or Tithingman, &c. and they are bound to secure the Party arrested. *Dalton, fo. 338. 20 Ed. 4. 6.*

*Constable
charged.*

*Prisoner
pinion'd.*

And note, That where a Constable or Officer shall imprison any Felon in the Stocks, he may lock the Stocks, and may also (if he see Need) put Irons on the Prisoner: And when he is about to convey him to the Justice or Gaol, he may pinion him, or otherwise so secure him, that he cannot escape. *Dalton, fo. 342.*

*How the
Constable
may deli-
ver up the
Prisoner.*

And when the Constable carries any such Felon, or suspected Felon, to the Gaol, the Gaoler is oblig'd to receive him: But if he refuses, then the Officer may either keep the Prisoner in his own House, or carry him back to the Town where he was taken; and the Town in the last Case, it's said, shall be charged with the Keeping of him until the next Gaol-Delivery, where (upon Complaint against the Gaoler) they will punish him for his Refusal. *Dalt. 340, 341. 10 H. 4. and 4 Ed. 3. ca. 10. Pulton, Prison. 6.*

But it may be the best and safest Way to carry him to a Justice, if conveniently it may be done.

*Felon
taken in
another
County.*

In Case where a Justice of Peace, Constable, or other Officer, comes to a Felon to arrest him, and he perceiving it flies into another County before he can be taken, and he is there taken; in such Case the Felon must be carried before some Justice of the Peace of that County where he is taken; and must be committed

ted to the Gaol of that Country, altho' the Felony was committed in another County. *Dalton, fo. 340. Bro. Impris. 25.*

To see the Watch be duly kept in the Town, &c.

The Constables, &c. of every Town, *Watch; in* are to cause Night-Watch to be kept *what Time from Ascension-day till Michaelmas, from of the Year.* Sun-set until Sun-rising, *viz.* in a City with six Men at every Gate; and in a Borough with twelve Men; and in every Town with six or four Men, according to the Number of the Inhabitants there. If any Stranger pass by them, he shall be arrested until the Morning, (when (if they have no Suspicion of him) they shall let him go quit; but if otherwise, they shall deliver him to be safely kept, &c. And here if any will not obey the Arrest, they shall levy Hue and Cry upon him; and for such Arrest of a Stranger, none shall be punished. *Stat. Winchester, cap. 4. 13 Ed. I.*

1. These Watchmen should be of able *Watchmen Body, and sufficiently armed.* *how to be*

2. No Man is compellable to watch, *qualified.* except he be an Inhabitant within the same Town, &c.

3. That such as are Inhabitants within *Their Order* the Town, are not compellable to watch *der.* at the Will of the Constable, but only when their Turn cometh, unless it is the Use and Custom of the Place to do otherwise.

4. If such as ought to watch, refuse *Refusal to* upon Command of the Constable, the *watch.* Constable may complain of him to a Justice of Peace, who may bind him over to

his good Behaviour, and to answer at the Quarter-Sessions; or the Constable may present him at the Assize or Sessions of the Peace: And some have held, that he may set the Party in the Stocks for his Contempt. But this seems rather to be, when the Party (or some for him) appears, and yet will not be orderly, as the Constable sees fit. *Dalton, fo. 141.*

Watchmen Duty. These Watchmen are to apprehend all Rogues and Vagabonds, Night-walkers, Eves-droppers, Scouts, and the like, and such as go armed.

Their examining of passengers by them, And tho' it be said, That if a Stranger pass by them, he shall be arrested until the Morning, the Use and Custom is for Watchmen to examine them; and if they find Cause of Suspicion in them, then they may keep them till the Morning: If not, suffer them to pass; and whether they be Horsemen, or Footmen, or Drivers of Cattle, or the like, or that shall carry any Burthen on Horseback; the Watch may stay them till the Morning, to justify themselves, unless they can render a good Account, both of themselves, their Company and Carriage; and if any Post come by them, 'tis good to know what Number they have, lest Offenders shelter themselves, and slip away under their Convoy. *Dalton, fo. 140, 292.*

Nota, and Quære.. And Note, That the Constables, &c. are to be aiding and assisting to these Watchmen on all Occasions: But yet methinks there is no Reason that the Constables should (as some do) think, that their Word is an unalterable Law, and that if a Person be taken in the Night on their Watch, and they once give Order for the Carrying him to the Counter, &c. that they

they cannot upon his Submission, or Proof of being a civil Person, call him back or discharge him. For in the Case of an Affray, after the Affray is over, the Constable may set the Affrayer at Liberty again, on his own Head: Therefore more reasonably he may in this Case, though in the Case of Felony, or Suspicion thereof, he cannot do it, as is aforesaid.

That the Statutes made for punishing Rogues, Vagabonds, Night-walkers, and such other idle Persons, be duly put in Execution.

This is a large Branch of the Constable's Office, and herein two Things are to be known,

1. What a Rogue is, and who is to be accounted a Vagabond, &c.
2. What is to be done unto them.

Note therefore, That all Persons (being above the Age of seven Years) Men or Woman, single or married, that wander from their usual Place of Abode, every where begging, or if they do not beg, if they wander and loiter abroad, without a lawful Pasport, and give no good Account of their Travel, are accounted Rogues.

But † these following are of a higher Degree, and are to be accounted as Rogues, Vagabonds, and sturdy Beggars.

Viz. 1. All Scholars and Sea-faring Men long without Clergy

2. * Wandering Persons using unlawful Games, subtle Crafts, or Plays, or pretending themselves to have Skill in telling Fortunes, by the Marks or Figures in the Hands or Face, or by casting of Figures, or Wales.

gures, all counterfeit *Egyptians* (or Gypsies) not being Felons.

3. All Jugglers (or slight of Hand Artists, pretending to do Wonders, by Vertue of *Hocus Pocus*, or the like) Tinkers, Peddlers, Petty Chapmen, Glass-men, especially if they be not well known, or have not a sufficient Testimonial.

Proctors in this Sense are Ga-therers. 4. All Proctors, Patent-Gatherers, (except for Fire) Collectors for Gaols, Prisoners, or Hospitals, wandering abroad, Fencers, Bearwards, common Players of Interludes, and Fidlers, or Minstrels wandering abroad.

5. Persons delivered out of Gaols, who beg their Fees, or otherwise do travel begging; such as go to and from the Baths, and do not pursue their Licence; Soldiers and Mariners, that beg and counterfeit Certificates from their Commanders.

6. All Labourers which wander abroad out of their respective Parishes, and refuse to work for Wages reasonably taxed, having no Livelihood otherwise to maintain themselves, and such as go with general Pasports not directed from Parish to Parish.

And note also, That all Servants departing out of their Service, that is to say, out of one City, Town or Parish, to serve in another, having no such Testimonial as the Statute requires, or producing a false one, are to be punished as Vagabonds.

And so are such Persons as are sick of the Plague, or infected therewith, and wilfully go abroad in Company, against the Command of Officers.

For all these Things, see *Stat. 29 Eliz. ca. 4.* and *ca. 17. 1 Fa. ca. 7. 21 Fac. ca. 28. Dalt.*

Dalt. ca. 24. Pult. Vag. 2 &c 7. Resolut. Ju-
dic. 13. 15.

Next observe, That Constables, &c. are to use their best Endeavours to apprehend ~~stables~~, &c all such Vagabonds, Rogues, or sturdy Beggars, which shall be found and taken ~~prehend~~ ^{all} wandering or begging within their respective Precincts under the Forfeiture of ~~Vaga-~~ 10 s. for every Neglect. bonds, &c.

The same Forfeiture is by such private Persons as shall not apprehend Rogues, &c. being at their Doors. And if any Person bring a Rogue or Beggar to one of these Officers, he is obliged to receive him and punish him according to Law, or he forfeits 20 s. to be levied by Warrant from two Justices. Stat. 39 Eliz. c. 4.

I Fac. ca. 7.

For the Punishment of Vagabonds, and who are adjudged Vagrants at this Time. Vide the new Act 12 Anne, for reducing all the Laws of this Kind into one Act of Parliament, at the End of the Book. They are to be whipp'd, and sent away by Pass, &c.

If the Husband or Wife have a House, Husband and one of them, or both rogue about, and Wife. they ought to be sent to the Town where the House is; and so of an Inmate.

Also the Wife and all Children under ~~Children~~ seven Years of Age, being Vagrant, must ~~under seven~~ be sent to the Husband, and if he be dead, ~~Years of~~ then to be sent with the Wife where she ~~Age~~. was born or dwelt last.

And Vagrant Children above ~~seven~~ ^{Children} Years old, must be sent to the Place of ~~above seven~~ ^{Years of} their Birth.

And note That when such Vagrant Parents with their Children under ~~seven~~ ^{Children} Years of Age, be placed at the Place of ~~under seven~~ Birth ^{Years once}

settled may Birth of their Parents, or their last Dwelling, if afterwards the Parents, or either moved. of them die, or run away, yet the Children once settled must remain there still, and may not be sent to their Place of Birth, though after they grow to be seven Pears old.

Wife.

The Wife being a Vagrant, ought to be sent to the Husband, though he be but a Servant in another Town.

And Wife and Children together. The Rogue whose Place of Birth, or Dwelling cannot be known, having a Wife, or Children under seven Years of Age, they must all go together with the Husband, to the Place where they were last suffered to pass through without Punishment; and there the Children must be relieved with the Work of their Parents, tho' their Parents be committed to the House of Correction.

Constables But it's said, Constables are not to post *not to post* away such Vagrants, (taken by them or away too sent to them) that are desperately sick; *hastily* such nor Women ready to be delivered. See as are sick for these, *Dalt. ch. 47. Resol. Jud. Sect. 4 or great & 5.*

with Child Note, That some Rogues are look'd upon as incorrigible Rogues, as such as *Incorrigible* shall appear to be dangerous to the inferior Rogues. Sort of People, threatening or offering any Violence to them, or that will not be reformed from their roguish Life, as having been once whipp'd and sent home, and do afterwards wander again: Or when they say they were born or dwelt last in such a Place, where in Truth it is otherwise. Such as these are accounted incorrigible Rogues; and all Constables meeting such Persons within their Liberties, ought to carry them before some Justice of

of Peace, there to be ordered by him according to the Statute.

Persons as run from their Families, and Run-leave a Charge to the Parish, are to be *agates*. punish'd as incorrigible Rogues ; and if any threaten to do it, unless he give Security to the Parish, he may be sent to the House of Correction. *Dalt.* 47.

I have already made some Mention of wandering Labourers, refusing to work for reasonable Wages, having no other Liveli-hood. And you may observe, That the Constable, &c. has Power *ex officio* to set on work all Artificers, or mechanick Tradesmen, fit to labour by Day, upon Request to him made by any Person that wants Help in Hay or Corn Harvest. And if they refuse, he may set them in the Stocks two Days and one Night ; and if the Constable neglect his Duty herein, he shall forfeit 40 s. *Stat. 5 Eliz. cap. 4.*

We spoke before of Servants leaving their Services without Testimonial, &c. departing 'Tis true, these Testimonials now are from one seldom regarded ; yet the Law gives a Service in great Penalty in this Case. For the Master that retains a Servant without a Testimonial, forfeits 5 l. And every Servant Service in which sheweth not a Testimonial to the Chief Officer in a Corporation, or to the Town &c. Constable, Minister, or Church-wardens, where he is to dwell, may be imprison'd till he can get one ; which, if not produced within twenty-one Days, or if he produce a false one, he is to be whipp'd and used as a Vagabond. *Stat. 5 Eliz. cap. 4.*

These Testimonials, if in a Town-cor-porate, are to be under the Hands and make the Seals of the Town, and two Householders there; nial.

there ; and in the Country under the Seals of the Constable or Constables, and two Houholders there : Which Testimonial shall be made and delivered to the Party, and also registered by the Minister of the Place where the Servant dwelt.

Note, No Penalty for not delivering a Testimonial to the Servant.

The Form of the Testimonial is this:

The Form
of the Te-
stimonial. **M**Emorandum, That A. B. Servant to
C. D. of J. in the County of E. Hus-
bandman in the said County, is licenced to de-
part from his said Master, [or Mistress, or
Dame, as the Case happens] and is at his
Liberty to serve elsewhere, according to the Sta-
tutes in that Case made and provided. In Wit-
ness whereof We have hereunto set our Hands
and Seals the 26th of October, in the Second
Year of the Reign of our Sovereign Lord King
George. Anno Dom. 1716.

A. B. Constable of J.

C. D. }
E. F. } Houholders there.

One would wonder, how so strict a Law should be so soon disused ; but it may be, for that it found a great Inconvenience for a Servant to get such a Testimonial ; however the Law is still in Force.

*Night-
Walkers.*

As to this Branch of the Oath that concerns Night-Walkers, and such other idle Persons, I have already spoke of that in *The Duty of the Constable and his Watch*. Yet it is said, That any private Man may arrest
Night-

Night-Walkers; however, then he must deliver them to a Constable, and they may be bound to their good Behaviour by a Justice.

See 2 Ed. 3. 6. Dalt. fo. 16. Pult. 18.
Lamb. 122.

For the Rest of the idle Persons, I think Orchard-we may reckon up such as cut down Robbers, Wood or Corn, and rob Orchards, and Hedge-the like. And therefore observe, That all Breakers, such as shall be convicted before a Justice Wood-of Peace, for cutting and taking away of Stealers, Corn growing, Robbing of Orchards, &c.. Breaking Hedges, &c. and their Procurers and Receivers knowing the same; if they cannot make such Satisfaction as the Justice shall think fit, the Justice may then commit them to the Constable to be whipp'd, either for the first or second Offence; and if the Constable refuse or neglect to see them whipp'd, the Justice may commit him to Gaol till he will do it, or procure it to be done. Stat. 43 Eliz. cap. 7.

And by the Statute of 15 Car. 2. cap. 2. Constables, Headboroughs, or other Inhabitants in County, City, or Town-corporate, &c. may apprehend whom they suspect having or conveying any Wood, Under-wood, Poles, or young Trees, Bark or Bait of Trees; or any Gates, Stiles, Posts, Pales, Rails, Hedgwood, Broom or Furze; and by Warrant from a Justice of Peace, the Officers may search the Houses, and other Places belonging to those they suspect; and where they find any, may carry Persons suspected for Cutting and Taking the same, before a Justice of Peace of the County, City, or Town-corporate; where, if they give not

such Account how they came by them as doth satisfy the said Justice, or in convenient Time to be set by the Justice, produce not the Party of whom they bought the same, or some Witness to depose upon Oath, such Sale shall be deemed as convicted within the Meaning of 43 Eliz. ca. 7. and be liable to the Punishment therein contain'd: And also for the first Offence, shall make such Recompence, and within such Time, as the said Justice shall appoint; and pay to the Overseers for the Poor of the Parish where the Offence was committed such Sum, not exceeding 10*s.* as such Justice shall think meet; and in Default thereof, to be committed to the House of Correction for any Time, not exceeding a Month; or else to be whipp'd by the Constable, &c. and for the second Offence, to be sent to the House of Correction for a Month, and be kept to hard Labour; and convicted of the third Offence, they shall be deemed incorrigible Rogues. 15 Car. 2. cap. 2.

Incorrigeable Rogues.

Penalty upon the Buyer of Stolen Wood.

And if any Person buy Wood, &c. of any other justly suspected to have stoln the same, and this be so found upon Examination before a Justice, the Justice may order the Buyer to pay the treble Value thereof to the Party from whom it was taken; and in Default of present Payment, make a Warrant to the Constable to distrain for it; and for Lack of Distress, to commit the Party to the Gaol, at the Party's own Charge, there to remain one Month without Bail or Mainprize.

15 Car. 2. cap. 2.

How and when to be Law, But none shall be questioned upon this *prosecuted.* Law, that hath been punished for the same Offence, by any former Law; nor

after six Weeks after the Offence committed, shall any Question thereof be made. 15 Car. 2. cap. 2.

By a late Act, Persons maliciously cutting or spoiling Timber-Trees, Fruit-Trees, or other Trees, are to be sent to the House of Correction for three Months, there to be kept at hard Labour, and be publickly whipp'd once in every Month. New Act, 1 Geo.

Stat. 1 Geo. cap. 48.

And Burning Timber or Underwood, is made Felony by this Law.

To have a watchful Eye to such as shall keep common and unlawful Gaming-Houses; and such Persons as shall frequent the same.

Every Mayor, Sheriff, Bailiff, Constable, and other Head-Officer, within every City, Borough or Town, shall make due Search, once every Month at least, on Pain to forfeit 40 s. for every Default, in all such Houses and Places where unlawful Games shall be used, and may arrest and imprison as well the Keepers of the House, as the Reporters thereunto, until they shall severally give good Security at the Discretion of the Justices of such Officers, not to keep such Games any more. Search for Gaming-Houses, &c. 48 s.

33 H. 8. cap. 9.

And for distinguishing what are unlawful Games, and who are unlawful Gamesters, it is enacted by the said Statute Gamesters.

33 H. 8. cap. 9. That no Artificer, or his Journeyman, no Husbandman, Apprentice, Labourer, Servant at Husbandry, Mariner, Fisherman, Waterman, or Serving-man, shall play at Tables, Tennis, Dice, Cards, Bowls, Coyting, or any other unlawful Game, out of Christmas, or then

out.

out of their Master's House or Presence, in Pain of 6 s. 8 d. or on Default of paying the Penalty, to be set in the Stocks three Hours.

But this A& shall not restrain a Servant, by his Master's Licence, to play at Cards, Dice, or Tables with the Master himself, or other Gentlemen resorting to his Master's House. And if his Master have Freehold of 100*l. per Annum*, he may also licence his Servants to play at Bowls or Tennis. 33 H. 8. ca. 9.

*Licences
void.*

All Licences to keep Houses or Places of unlawful Games shall be void by Stat. 2 & 3 Ph. & Mar. cap. 9. And the Master forfeits 40 s. a Day for keeping them, by 33 H. 8.

At your Assizes, You shall present all Offences contrary to the Statutes, for the Restraint of inordinate Haunting and Tippling in Inns, &c. for the Repressing of Drunkenness and profane Swearing.

*No Ale-
house-
keeper to
suffer tip-
pling.*

No Innkeeper, Victualler or Alehouse-keeper, shall suffer any Town-Dwellers to sit tippling in his House, in Pain of 10 s. nor sell less than a full Ale-Quart of the best Ale, or Beer, or two Quarts of the small, for 1 d. in Pain of 20 s. And here the View of one Justice, or Proof by one Witness upon Oath, or the Party's own Confession before one Justice, is sufficient Conviction. 1 Jac. 9. And the Oath of 1 Jac. 9. the Party confessing shall convict any 21 Jac. 7. other.

3 Car. 4. The Penalties aforesaid are given to Distress. the Poor of the Parish, where the Offence is committed; and are to be levied on Warrant (by the Constable and Churchwarden)

warden) by Distress, which after six Days may be sold to satisfy the Penalty : And in Default of Distress, the Party delinquent must suffer Imprisonment till he *Imprison-* pay the Penalty. And here every Officer *ment.* that neglects to levy the said Penalty, or certify (within twenty Days) the Default of Distress, shall forfeit likewise to the Poor 40 s. to be levied (upon Warrants) *Officer for-* from one Justice, by Distress and Sale as *feit* 40 s. aforesaid ; and upon Default of Distress, shall incur Commitment, as aforesaid.

The Officers or other Parties receiving Officers these Penalties, shall be accountable to *account-* the succeeding Officers, and other Pa- able. riitioners.

One convicted of Drunkenness in Court, One con- or before a Judge or Justice in their se- victed of veral Limits; or by the View of one Ju- Drunken- stice, or Proof by one Witness, upon Oath ness. before one Justice, shall forfeit five Shil- lings to the Poor, to be levied and em- ployed as the Penalties of 1 *Fac. 9.* And *Penalty.* in Case he be not able to pay it, shall re- main in the Stocks six Hours: And for *Stocks.* the second Offence of Drunkenness, may be bound to good Behaviour. 4 *Fac. 5.*

21 *Fac. 7.*

Here the Officer that neglects to levy Officer for- the said Penalty upon Warrant, shall for- feits 10 s. feit 10 s. to be levied and employed as aforesaid. 4 *Fac. 5.*

A Town-Dweller, which is convict to sit One con- tippling in an Inn, Victualling-house, or *vic* of tip- Ale-house, by the View of one Justice, or *pling.* the Proof of two Witnesses, shall forfeit ten Groats, to be levied and employed as *Forfeiture.* aforesaid; and being not found able to pay it, shall remain in the Stocks four *Stocks.* Hours, 4 *Fac. 5.*

These

Where these Offences shall be enquir'd

These Offences, as also those mentioned in 1 *Fac. 9.* shall be enquired of, heard, and determined at the Assizes, Quarter Sessions, in Corporate-Towns and in Leets.

4 *Fac. 5.*

Officers sworn to prevent them.

And all Constables, Church-wardens, Headboroughs, Tithingmen, Ale-Conners and Sidemen, shall be charged on their Oaths to present the said Offences. 4 *Fac. 5.*

12 *Fac. 7.*

But one Punishment for one Offence.

None shall be twice punished for one Offence. 4 *Fac. 5.*

† Vintners, which do also keep Inns or Victualling-houses, shall be taken to be within these Acts. 1 *Fac. 9.* 4 *Fac. 5.* and 1 *Car. 4.*

within these Acts. The Offenders 4 *Fac. 5.* to be prosecuted within six Months.

Alehouse without Licence.

By Stat. 3 *Car. 3.* none shall keep an Alehouse without Licence, in Pain to forfeit 20 s. to the Poor, which the Constable and Church-warden (upon Warrant before the Justice) shall levy by Distress, and (after three Days Default of Payment) may sell the Distress, to satisfy the Penalty, rendering the Overplus: And in Case the Delinquent hath not wherewithall, the said Justice shall commit him to the Constable, to be openly whipp'd.

Distress.

And here the Officer that neglects to execute the Warrant, or to punish the Offender, shall suffer Imprisonment without Bail, or pay 40 s. to be employed as aforesaid.

Alehouse-keeper whipp'd. Officer punish'd.

By 21 *Fac. 7* & 10. the Alehouse-keeper shall be disabled for three Years, who offends against 1 *Fac. 9.* and 4 *Fac. 5.*

Alehouse-keeper refusing to

And Note, That if a common Innkeeper or Alehouse-keeper will not lodge a Traveller, who profers ready Money beforehand

hand for his Victuals ; in such Case the *lodge Traveller* Constable may cause such Inn-keeper or *vellers*. Alehouse-keeper, to be indicted at the Indictment next Sessions or Assizes, where the Justice and fined. stices may fine and imprison him. *Damages*

Or in such Case the Traveller grieved recovered may bring an Action, and recover Damages by the Traveller against the Inn-keeper, &c. *Dalt. veller.*
fo. 28. 9 Co. 27. b. 10 H. 7. 8.

Next, For the Repressing of profane Swearing.

If any shall swear or curse within the Hearing of a Justice of Peace of the County, Mayor, Justice, Bailiff or Head-Officer of any City or Town-Corporate, where the Offence is; or shall be convicted thereof by his own Confession or the Evidences of two Witnesses upon Oath, before such Mayor, Justice, or Head-Officer, he shall forfeit 12 d. for every Time, and the Justice of Peace, or Head Officer may thereupon issue out their Warrant to the Constables, and Church-wardens and Overseers of the Poor of that Parish where the said Offence shall be committed, to levy the Sum and Sums of Money by Distress and Sale of the Offender's Goods, rendring the Overplus (if any be) to the Owner.

And where no Distress is to be had, the Offender Offender (if above twelve Years of Age) set in the shall by Warrant, as aforesaid, be set in Stocks. the Stocks three Hours; but if he be under twelve Years, and shall not forthwith whipp'd. pay the Sum of 12 d. per Oath, then he shall be whipp'd by the Constable, or by the Parent or Master, in the Constable's Presence. 21 Jac. cap. 20. 3 Car. cap. 4.

17 Car. cap. 4. Dalton 138. See the late Swearing, Act of the 6 & 7 W. & M. against Swearing, by late Acts.

ing, and being convicted thereof, if a Servant or Labourer, &c. forfeits 1 s. to the Poor, and every other Person 2 s. and double for the second Offence, and treble for the third, to be levied by Warrant of one Justice by the Constable.

And if there be no Distress for levying the Penalty, the Offender is to be set in the Stocks one Hour for the first Offence, and two Hours for more, if above 16 Years of Age; and if under, to be whipp'd.

I will now set down the Constable's Office, concerning such as *profane the L O R D 's Day.*

Penalties upon such as use unlawful Sports and Pastimes on the Lord's Day. The Constable, Headborough, &c. or Church-wardens, by Warrant from a Justice of Peace (or other chief Officer of any City, Borough, or Town-Corporate) under their Hand and Seal, against such as use unlawful Games on the L O R D 's Day, as *Bear-baitings, Bull-baitings, Interludes, Common Plays,* or other unlawful Pastimes, within or out of their own Parish, may levy the Penalty of 3 s. 4 d. by Distress and Sale of the Offender's Goods, rendering the Overplus to the Owners; and in Default of Distress, the Constable is to set the Offender in the Stocks by the Space of three Hours. 1 Car. I. cap. I.

Conviction by View or one Witness, &c. To be prosecuted within a Month. General Issue. The View of one Justice in the Country, or chief Officer in a Corporation, or Party's own Confession, or the Oath of one Witness, shall be a sufficient Conviction. But the Party offending against this Act, must be questioned within a Month after the Offence committed: And if the Officer be question'd, he shall plead the general Issue, and give the special Matter in Evidence. 1 Car. I. cap. I. Dalt. fo. 63. Abridg. of Stat. p. 275.

Every

Every Person keeping or being present 5 s. for-
on the L O R D ' s Day at any Wrestlings, feited.
Shootings, Bowlings, Ringing of Bells for
Pleasure, Mask, Wake, Church-Ale, Dan-
cing, Game, Sport, or Pastime what-
soever, he forfeits 5 s. if he or she be a-
bove fourteen Years of Age; but if he be
under, he forfeits only 12 d. by him un-
der whose Tuition he or she is.

And no Carrier with his Horse, Wag- 20 s. by a
goner with his Waggon, Carman with his *Carrier,*
Cart, Wainman with his Wain, or Drover &c.
with his Cattle, shall travel on the L O R D ' s
Day, in Pain to forfeit 20 s. for every
such Offence. 3 Car. I. cap. I.

Note, There must be but one 20 s.
forfeit for one Journey, though they pass
through several Parishes, and the Parish
where the Distress is first taken, shall have
it. See *Dalt. fo. 134.*

Persons travelling with Boats, &c. on a *Boats,*
Sunday, except on extraordinary Occasion &c.
allowed by a Justice, forfeit 5 s. Stat. 29.

Car. 2. cap. 7.

Neither shall any Butcher by himself, *Butcher,*
nor any for him, kill or sell any Virtual 6 s. 8 d.
upon the same Day, in Pain of 6 s. 8 d.

3 Car. I. cap. I.

Here the Conviction of the Offender, *Conviction*
and the Levying and Employment of the *by View or*
Forfeitures, are the same with those of *two Wit-*
the former Statute, save only that here *nesses, &c.*
two Witnesses are necessary.

This Action shall be prosecuted within
six Months; and here also the Officer may
plead the general Issue. Stat. 3 Car. I. *General*
Issue.

And note, That a Church-warden may
levy 12 d. upon such Persons as repair not
every

every Sunday to some Church or Chapel,
by 1 Eliz. ca. 2.

But by 3 Jac. 4. he must levy it by War-
rant.

By the A& of *Indulgence*, he may go to
Meeting or Conventicle.

See more of this hereafter, in the Duty
of Church-wardens.

Penalties All Laws in Force concerning the Obser-
on such as vation of the LOR D's Day, shall be put
shall work in Execution. None shall do any worldly
or sell on Labour or Business on that Day, (Works
the Lord's of Charity and Necessity only excepted)
Day. and all of the Age of fourteen Years or
upwards, offending in the Premises, shall
forfeit 5 s. And no Person shall publick-
ly cry or expose to Sale, any Wares what-
soever on that Day, on pain to forfeit
them. 29 Car. 2. cap. 7.

5 s.

Quare, If Selling Drink (called for) be
an Exposing of Wares, &c. 'Tis conceiv'd
not to be an Exposing to Sale; but it may
be adjudg'd wordly Labour within the A&
by the Alehouse-keeper; and Absence
from Church by the Guests who drink the
Drink.

Seizure of The Justice of Peace or chief Officer of
Goods ex- the City, Borough, &c. before whom the
posed to Offender is convicted by View, Confession
Sale. or Oath of one Witness, shall give War-
rant to the Constables or Church-wardens,
to seize the Goods cried or put to Sale,
and to sell them, and to levy the other
Penalties by Distress and Sale of Goods;
and in Case of Inability, &c. to set the
Offenders in the Stocks for two Hours.

Offenders The Penalties to be employed to the Use
to be set in of the Poor of the Parish where the Of-
the Stocks. fenses are committed; saving that any
Justice or Head-Officer may out of them
reward

reward Informers, so as such Reward ex-Informers
ceed not a third Part of the Penalties rewarded.

29 Car. 2. cap. 7.

This A& shall not prohibit Dressing of *Toleration*
Meat in Families, or Inns, Cooks-Shops, for Cooks.
&c. nor Crying of Milk before nine of
the Clock in the Morning, or after four
in the Afternoon; nor the Sale of Mac-
karel on a Sunday. 29 Car. 2. cap. 7.

No Persons on the LORD's Day shall *Serving of*
serve any Process, Warrant, &c. (except *Process*
in Cases of Treason, Felony, and Breach *and Arrests*
of the Peace) but such Services shall be
void; and the Persons serving the same
shall answer Damages, as if they had done
the same without Warrant. 29 Car. 2.
cap. 7.

Disturbing Preachers.

A NY Person disturbing a lawful Mi- *Disturbing*
nister in Preaching, Praying or Ad- *of Mini-*
ministring the Sacrament, may be pre- *sters in*
sently apprehended by the Constable or *their*
Church-wardens, and carried before a *Preaching,*
Justice, who may, if he think fit, com- &c.
mit him to safe Custody; and within six
Days after with another Justice, if they
find the Offence prov'd by two Witnesses,
commit him to the Gaol for three Months, Commit-
and from thence till the next Sessions; *ment.*
where the Offender giving Security for
his good Behaviour, he may be discharged, *Good Be-*
otherwise to be continued in Prison till he *haviour.*
make Submission.

And note, That if any Person rescues
such an Offender, he shall suffer Impris-
onment, and also forfeit 5*l.* And also
the Inhabitants of the Place, if they suf-
fer

Submission
Rescuing
the Offen-
*der 5*l.**

fer him to escape, forfeit 5*l.* if they be presented at the County Sessions. Stat. 1 Mar. Sess. 2. cap. 3.

Some think this Statute is repealed by 1 Eliz. cap. 2.

See Dalt. fo. 103, 104.

See more hereafter, of disturbing a Protestant dissenting Minister.

Tithes of Clergy.

Money for Tithes levied by Constables. **C**Onstables, &c. are by Virtue of a Warrant from two Justices, to levy Money adjudg'd for refusing the Payment of small Tithes to Clergymen (under 40*s.*) by Distress and Sale in three Days.

Justice's Power. And two Justices have Authority to summon the Party, hear the Complaint by Witnesses, and give Judgment, Order and Costs not exceeding 10*s.* &c. Stat. 10 & 11 W. 3, And 3 & 4 Ann.

Popish Recusants.

Popish Recusants. **P**Opish Recusants, above sixteen Years of Age, shall within forty Days after their Conviction, repair to their usual

Not to remove five Miles from their Dwelling, during Life. And if they have no certain Dwelling, Abode, then they are to repair to the Place where they were born, or where To give in their Father or Mother dwells; and with their Names to the Con-

stable, &c. in twenty Days after their Arrival there, to give their Names in Writing to the Minister, Constables, and Headboroughs; which Minister is to enter them in a Book

Book to be kept for that Purpose; and he together with the said Constables and Headboroughs, are to certify the same to the next Quarter-Sessions, where the Justices of Peace shall cause them to be inrolled.

See *Wing. Abr. Stat. Tit. Crown. 35 Eliz. cap. 2.*

The Constables and Church-wardens of *Constables* every Parish, or one of them (or if there to present be none such, then the High-Constables *Popish Recusants* of the Hundred there) are once every *cusants at Year to present* at their General Sessions *the Sessions* of the Peace, the monthly Absence from Church of every Popish Recusant, and the Names of their Children, being above the Age of nine Years, abiding with their said Parents, and of their Servants together with the Age of their Children, as near as they can know them, on Pain to *On Penal-forfeit* respectively for every such Default *ty of 20 s. 20 s.* Which Presentment, the Clerk of the Peace or Town-Clerk shall record without Fee, on Pain of *40 s. 3 Fac. 1.*

cap. 4. Abr. Stat. Tit. Crown.

If the Minister, Petty Constables, or *Recusant Church-wardens* of any Parish, or any *refusing to* two of them, shall complain to a Justice *take the* of the Peace, of any Person suspected of *Oath. Recusancy*, such Justice may tender the Oath of Allegiance to the Person suspected; and if he refuse to take it, may commit him to Gaol till the next Assize or Sessions, where, if he again refuse, he incurs a *Præmunire*; but if the Person suspected be a married Woman, she shall only be continued in Prison, without Bail, till she take the said Oath. *Wing. Abr. Tit. Crown. 7 Fac. cap. 6. Dalt. fo. 10.*

Note,

Note, That by a late A&T W. & M.
the old Oaths of Allegiance and Supre-
macy are taken away, and new Oaths ap-
pointed.

New A&T. By 9 Geo. All Persons, Men and Women
having Estates, are to take the Oaths of
Allegiance, Supremacy, and Abjuration,
or register their Estates as Papists, &c.

Conventicles.

**Constables
must levy
Fines, &c.
upon Fre-
quenters of
Conventi-
cles.**

Every Constable, Headborough, Ti-
thingman, Church-warden, and O-
verseers of the Poor, are authorized and
required to levy the Fines ass'd by the
Justice of Peace upon those who shall be
present at unlawful Conventicles, upon
their Goods and Chattels (having first re-
ceived a Warrant under the Hands and
Seals of one or more Justices or Chief
Magistrate) and forthwith to deliver the
Money so levied to the same Justice of
Peace or chief Magistrate. 22 Car. 2.
cap. I.

**Constables
must in-
form of
Conventi-
cles, on
Penalty of
5 l.**

If any Constable, Headborough, Ti-
thingman, Church-warden, or Overseers
of the Poor, shall know or credibly be in-
form'd of any Conventicle within his Pre-
cinct; and shall not thereof inform some
Justice of Peace, or chief Magistrate, and
endeavour to convict the Parties, but ne-
glects his Duty, he forfeits 5 l. to be le-
vied on his Goods. 22 Car. 2. cap. I.

**May break
open the
Doors to
search for
Conventi-
clers.**

And the said Officers, being Constable,
Headborough, or Tithingman, may (upon
a Warrant from one or more Justice or
Justices, or chief Magistrate) with what
Aid, Force, and Assistance they think fit,
(after Refusal or Denial to enter) break
open

open into any House, or other Place, where they shall be inform'd any Conventicle is held, as well within Liberties as without, and take into their Custody the Persons there unlawfully assembled, to be proceeded against according to this A&t:

But no Peer's House is to be searched, *Peer's* unless in Presence of a Lord Lieutenant, *House.* or two Justices of the Peace, whereof one to be of the *Quorum.*

And note, That the Penalties for a *Wife's Pe-* married Woman, (living with her Hus- *nalty le-*band) shall be levied on Goods of the *vied on* Husband. *Husband's*

And any Person sued for acting by this *Goods.* Law, may plead the general Issue, and *General* give the special Matter in Evidence, and *Issue.* shall recover treble Costs, 22 Car. 2. cap. 1.

But his Majesty's Protestant Subjects, *Exceptions* dissenting from the Church of *England*, by *Act of* and qualified according to the late Statute *Indulgence* of Indulgence, are exempted from Pe- *to Differ-*nalties. *ters.*

See *Stat. 1 Will. & Mar. 24 Maii*
1689.

Provided no Popish Recusant have any *Not to ex-* Benefit. *tend to Po-*

Provided also no Congregation be al- *popish Recu-* lowed until the Place of Meeting be cer- *sants.* tified to the Bishop, or Archdeacon, or Justice of the Peace, &c.

And provided, That if any Assembly of *Dissenters* Persons, dissenting from the Church of *not to keep* *England*, shall be had in any Place for re- *their Meet-* ligious Worship, with the Doors lock'd, *ing-House* barr'd or bolted, during the Time of such *Doors* Meeting together: All and every Person *lock'd or* that shall come to and be at such Meet- *barr'd, &c.* ing, shall not receive any Benefit from this

this Law, notwithstanding his Taking the Oaths, and making and subscribing such Declarations, &c. as are in the said Act contained. 1 Will. & Mar. 24 Maij, 1689.

You shall true Presentment make of all Bloodshedding, Affrays, Outcries, Rescues, or other Offences committed or done against his Majestys Peace, within your Limits.

When and where Con- This Branch explains it self; and it is the Duty of High Constables, and Petit *ftables* Constables to attend upon, aid and assist, *must make* and execute the Warrants of the Judges of *their Pre-* Assize, at their Assizes and Gaol-Delivery, *sentments.* and the Justices of Peace at their General and Special Sessions, and other Meetings, and there (upon Oath, and in Writing, if it be required) to make Presentment to them of Things within their Knowledge against the Peace, and of such other Things as are usually contain'd in Articles exhibited to them for that Purpose: As concerning Felons, Hue and Cry, Watch, Punishment of Rogues, Labourers, Servants, Apprentices, idle and suspected Persons, the Assize of Bread and Beer, Weights and Measures, Bridges in Decay, Alehouses, licensed and unlicensed, Gaming-houses, harbouring Rogues, Tippling and Drunkenness, unlawful and unsealed Measures, Defect of Highways, &c. and if they be charged, they must give Account to all the Particulars of their Office; and for any Neglect or Fault therein, Justices may punish them by Indictment, or otherwise, as in other like Cases of Neglect or Contempt of them.

Most of these Things, especially those which are common Nusances; as cor-

rupting the Air, Water or Victuals, by Filth or Carkasses, &c. Stopping of the Way and Passage, Deceit in Weights, &c. Counterfeiting of Wares, and the like, the Constables, &c. are to present at Leets, and give Information of the Offenders, to the Intent they may be punished as the Law requires.

See Bacon's Cases, p. 28.

You shall well and duly execute all Precepts and Warrants to you directed, from the Justices of Peace and others, who have Authority in this County.

First observe, That it's said a Justice of How the Peace may direct his Warrant to the Constables Sheriff, Bailiff, Constable, Headborough, ought to Tithingman, or any other Officer, or any execute the other indifferent Person by Name, tho' Justices he be no Officer.

See Dalt. fo. 332. 14 H. 8. 16.

But some Acts of Parliament limit the Officers to whom he shall direct his Warrant, &c.

Secondly, Note, That generally where *When a* a Justice of Peace hath Jurisdiction and *Justice* Authority in the Matter, though he make *makes his* his Warrant something beyond his Power, *Warrant* yet is not the Constable, &c. to dispute *beyond his* it, but must execute it, and he shall be *Power,* excused; as for Example, If the Justice &c. make a Warrant to arrest a Man for the Peace or good Behaviour, &c. and there is no Cause for it, yet the Officer shall not be punished for executing the Warrant. But it is otherwise, where a Justice of Peace makes his Warrant for something to be done out of the Jurisdiction of the Justice, or wherein he is no Judge;

and here the Officer may be punished if he execute it, and therefore may very well disobey it. And it behoves an Officer at his Peril, to take Notice of the Authority and Jurisdiction of the Justice. *Dalt. fo. 334. Lamb. 67, 49. Cromp. 74. 14 H. 8. 16. 10 Co. fo. 76.*

*Notorious
Mistakes
in a War-
rant.*

Neither ought an Officer to obey a Warrant that has apparent and notorious Mistakes in it, as if it command him to levy of a Man *s.l.* because he was tippling in an Ale-house, or had sworn an Oath, or the like, where the Penalty amounts not to a tenth Part; or if it requires the Constable to do something not within his Precincts: But otherwise where it is regular, the Officer to whom such Warrant is directed, ought with all Speed and Secrecy to execute it. *Dalton, fo. 332.*

*Constable
not obliged
to shew his
Warrant.*

And a sworn Officer, as a Constable, &c. needs not to shew his Warrant to any man, when he comes to serve it upon him, although he require it; yet he ought to acquaint the Person with the Contents thereof; and such as is no sworn Officer ought to shew his Warrant on Demand; otherwise the Party may chuse whether he will obey it. *Dalt. fo. 332. Bro. Faux Impr. 23. 6 Co. 54. 9 Co. 68.*

Officer

But 'tis said, That if the Officer say to gives suffi- a Party, I arrest you in the King's Name, cient No- &c. that is a sufficient Notice what he is, rice by these and in such Case, tho' the Party knoweth Words, I he is no sworn Officer, he ought at his arrest you, Peril to obey him; and if the other hath &c. no lawful Warrant, the Party grieved may bring an Action of false Imprison- ment against him. *Dalt. fo. 333. 9 Co. fo. 69.*

If

If a Constable or other Officer arrest a *Constable* Man, before he has his Warrant, though makes an afterwards he procure one to arrest the *Arrest* Party for the same Cause, yet it is a *first, and* wrongful Arrest, and the Officer is sub-*then pro-* ject to an Action of false Imprisonment. *cures a*
Dalt. fo. 333. Lamb. 93. Dyer 244. Warrant.

If a Constable, &c. after he hath ar-*Constable* rested the Party, by Virtue of his War-*takes the* rant, lets him at Liberty upon his Pro-*mise, that he will come again at another Offender's* Day, and go with him to the Justice, and *Word for* if the Party comes not at the Day ap-*Appear-* pointed, the Constable in this Case can-*ance.* not take him again upon the same War-*rant, because he went at Liberty by his* Consent; but if he had escaped of his own Wrong, without the Consent of the Officer, in such Case it's said, the Officer may make fresh Suit and take him again, *Fresh Suit.* and though he run out of Sight, or fly into another Town or County, he may bring him back before the Justice that granted the Warrant on which he first arrested him. *Dalton, fo. 333, 340. Cromp.*
148, 172, 173, 214. Vide antea, concerning
Escape.

It's said, That if there be two or three *Three Per-* Persons known by the Name of A. B. of sons of one C. Gent. and a Warrant is granted against Name, and one of them, wherein the wrong Person the wrong is arrested, in such Case false Imprison- *Man is* ment will not lie. *Dalt. 333. 11 H. 4. fo. arrested.*

90. 5 E. 4. fo. 51. Quære of

But where a Warrant is granted against this.

A. B. Son of E. B. and the Officer takes *Constable*
A. B. Son of F. B. who in Truth is the *takes the* right Person that offended, and was com- *Offender,* plained of; yet the Arrest is wrongful, whose and the Officer liable to an Action of *Name was* *false mistaken in*

*the War-
rant.* false Imprisonment. *Dalt.* 333. 10 E. 4. 1.
Bro. 38.

*Warrant
against a
Felon.* It has been held, That a Justice of Peace cannot make a Warrant to arrest a Felon, unless he be first indicted of Felony, or that the Justice himself hath a Suspicion of the Felon. But yet if the Constable or other Officer do execute the Warrant, he may justify it, though there was Error in the Justice. 14 H. 8. 16. *Bro.* *Peace* 6. & *Faux Imp.* 8. *Dalt.* fo. 331.

Nota. It has been said before, That a Constable, *ex Officio*, may upon Suspicion or Information arrest a Felon.

*One arrest-
ed for Fe-
lony, and
none done.* Yet it's said that common Fame and Voice is not sufficient Cause to arrest a Man for Felony, unless a Felony be done indeed. But where a Hue and Cry, either by the Common Law or Statute is levied upon a Person, the Arrest of him is lawful, though the Hue and Cry be feigned. And if it be feigned, he that levies the same, may be arrested, fined, and imprisoned. 29 E. 3. 9. 38 E. 3. 6. 3d Part *Co. Inst.* fo. 118. 21 H. 7. 28.

*Where the
Constable
may break
open the
House.* Note, That a Constable or other Officer, upon a Justice's Warrant for Treason, Felony, and the like, or in any other Case where the King is a Party, may by Virtue of the Warrant break open any House, to arrest the Offender, having first signified the Cause of his Coming, and required them to open the Doors. 5 Co. fo. 9. *Cromp.* 171. *Dalt.* fo. 204, 205, 333.

*Punish-
ment of
such as
abuse the
Justice's
Warrant.* Note also, That if any Person shall abuse the Justice of Peace his Warrant, either by throwing it into the Dirt, treading it under Foot, burning it, or the like; such Person for such his Contempt, may be

be bound to his good Behaviour; and may also be indicted and fined for the same, for it is the King's Process. *Cromp.*

149. *Dalt. fo. 334.*

Note also, upon a general Warrant, Before the Constable may chuse his Justice, but *what if* where the Warrant runs only to bring *sicne* the Party before the Justice granting it, Offender then the Constable must carry him before *must be* that Justice, and not elsewhere. *carried.*

Lastly observe, That a Person committed to Gaol, ought to bear his own Charges, committed to be levied of his Goods and Chattels, *to Gaol,* by a Justice's Warrant for that Purpose; *must bear* but if he have no Goods, then the Parish *their own* where he was apprehended is to bear the *Charges.* Charge of conveying him, by an indifferent Assessment, by the Constable and Church-wardens, and two or more of the Inhabitants, allowed of by a Justice of Peace. And the Gaoler is bound to receive the Prisoner freely, without taking any Thing of the Officer that brings him. See Stat. 3 *Fac. 1. cap. 10.*

You shall well and truly according to your Knowledge, Power and Ability, do and execute all other Things belonging to the Office of a Constable, so long as you shall continue in the said Office.

This is the last Branch of a Constable's Oath, and extends particularly to all other Things belonging to his Office. Therefore I shall next endeavour to set them down in Order for your Instruction.

C H A P. III.

The Constable's Office about seizing Arms, the Militia, &c.

Constables to seize the Arms of such as the Lieutenants of the Militia judge dangerous. THE Lieutenants of the Militia, or two or more of their Deputies, may by Warrant employ Persons (of which a Commission-Officer, and a Constable or his Deputy, or the Tithingman, or in their Absence, some other Officer of the Parish shall be two) to search for, and seize Arms, in the Custody of such as the said Lieutenants or any two of their Deputies judge dangerous, and to secure them, and give Account thereof to the said Lieutenants, &c. 13 & 14 Car. 2. cap. 3.

When the Search must be made. No Search to be made between Sun-setting and Sun-rising, other than in Cities and their Suburbs, Towns-Corporate, Market-Towns, and Houses within the Bills of Mortality, if the Warrant so directs. *Ibid.*

Searching of the House of a Peer. No Dwelling-house of a Peer shall be searched, but by Warrant from the King, under the Sign Manual, or in the Presence of the Lieutenant, or one Deputy Lieutenant. *Ibid.*

In Case of Resistance. In Case of Resistance, it shall be lawful to enter with Force, and the Arms seized may be restored, if the Lieutenants, their Deputies, or any two of them think fit. 13 & 14 Car. 2. ca. 3.

High Constables, Petty Constables, and other Officers, shall be assisted in the Execution of the Premisses.

The Constables also, by Warrant for *Constables* that Purpose, under the Hand and Seal of *to levy* the Lieutenants and their Deputies, or *Fines, &c.* three of them, are to levy such Sums as shall be charged upon such as neglect to provide Horse-men and Foot-men, Arms for the Militia, &c. according to the Act

14 Car. 2. ca. 3. 15 Car. 2. cap. 4.

And where sufficient Distress cannot be *Lack of* had, then the Lords Lieutenant, or their *Distress* Deputies, by like Warrant to the Con- and Com- stable, may commit such Offender to Pri- mitment. son, until he shall make Satisfaction ac- cording to his Forfeiture, Payment, or Penalty. *15 Car. 2. cap. 4.*

Horsemen of the Militia are to be e- *Militia* quipp'd with a Broad Sword, a Case of *Horse and* Pistols twelve Inches long in the Barrel, Foot: a Carabine with Belt and Bucket, Great Saddle, &c. And Foot-Soldier, With a Musket five Foot long in the Barrel, with a Bayonet, to fix in the Muzzle, a Car- touch-Box, and Sword. *1 Geo. c. 11.*

The Constables or their Deputies, Head- *Constables* boroughs, and Tithingmen from Time to Time are to assist such as shall be im- *to seize Po-* powered by Warrant, under the Hands *pish Recu-* and Seals of two Justices of Peace or *sants Arms* more, to search for all Arms, Weapons, Gun-Powder, or Ammunition, which shall be in the House, Custody, or Possession of any Popish Recusant, and to seize the same for the Use of his Majesty. *Stat.*

11 Maii; primo W. & M.

All Popish Recusants, and other Per- *Disturbers* sons, concealing Popish Recusant's Arms, *to be com-* or disturbing such as are authorized to *mitted.* search and seize the same, shall by like Warrant as aforesaid, be committed to the common Gaol for three Months without

Bail, and shall forfeit the said Arms, and lose treble the Value of them to his Ma-
jesty and his Successors.

To seize Also the Constables, &c. are to be aid-
the Horses ing as aforesaid, to search for the Horses
of Popish of Popish Recusants, above the Value of
Recusants, 5 l. a Piece, and to seize the same for his
above 5 l. Majesty's Use; and to carry to Gaol such
Value. as shall conceal any such Horses, to be
committed by like Warrant for three
Months without Bail, and to forfeit treble
the Value of such Horse or Horses. I W.
& M. 11 Maii, 1689.

Amoving. The Constable also is to obey the Justice
Papists ten his Warrant, for bringing before him, and
Miles from amoving Papists and reputed Papists,
London from the Cities of London and Westminster,
and West- and ten Miles distant from the same,
minster. 14 April, W. & M. 1689.

C H A P. IV.

Account.

Bailiffs, Constables and Sheriffs, and
other Officers, are to execute the
Orders and Precepts of the Commissioners
appointed to examine and state the pub-
lick Accounts of the Kingdom, by an Act.
a W. & M.

C H A P . V .

The Constable's Office about seizing of Cattle, &c.

COnstables, Tithingmen, Headboroughs, **C**onstables Church-wardens, or Overseers of the Poor, or any other Person may take and Irish Cattle, Sheep, or Swine, or any Beef, Pork, or Bacon brought from Ireland: And that to prevent fraudulent Seizures, and Compositions, the Seizors shall within six Days after Conviction and Forfeiture, cause the said Cattle, Sheep and Swine, to be killed, and the Hides and Tallow shall be to the Seizor, and the Remainder to be distributed by the Church-wardens and Overseers amongst the Poor of the Parish where any such great Cattle, Sheep, or Swine, shall be imported or found. Stat. 18 Car. 2. cap. 2. 20 Car. 2. cap. 7. 32 Car. 2. cap. 2.

The Seizor, Church-warden, or Overseer, failing in his Duty, shall forfeit 40 s. upon Seizor for every one of the great Cattle, and 10 s. for neglect for every Sheep, or Swine, which should have been so killed and distributed. One ty. Moicity to the Poor of the said Parish, the other to the Informer, to be levied by Distress and Sale of the Offender's Goods, Commit by Warrant from any one Justice of Peace, and for Want thereof the Offender to be committed to Gaol for three Months without Bail. 32 Car. 2. cap. 2.

*Mutton and Lamb imported, shall be
and Lamb subject to the like Seizures, and the Im-
to be seized. porters and Sellers to the like Penalties,
as they are for importing of Beef, Pork,
or Bacon, and so it is for all Butter and
Cheese which shall be imported from Ire-
land.* 32 Car. 2. cap. 2.

*A second
Seizure
may be
made.* And note, That if any great Cattle,
Sheep or Swine, which have been seized,
shall be found alive in any other Parish
or Place, they are subject to a second
Seizure, and to be killed for the Benefit
of the Seizor, and the Poor of the Parish
or Place, in the same Manner as is or-
dered upon the first Seizure.

*Intermixed
Cattle all
forfeited.* And if there be any *English, Scotch, or*
other Cattle intermixed with Irish Cattle,
they shall all be deemed and forfeited as
Irish. 32 Car. 2. cap. 2.

CHAP. VI.

The Constable's Office about pro- viding Carriages, &c. for the King.

THE Constables formerly, by many Statutes, had much to do in taking up Provisions and Carriages for the King and his Court: But by the Statute 12 Ca. 2. cap. 24. as concerning Provisions, it is enacted, That no Pre-emption (that is, a Privilege of buying before others) shall be allowed the King, or any of his Royal Family, in or out of any Market; but the Subjects

*Pre-emp-
tion and
Purvey-
ance taken
away,*

Subjects may dispose of their Goods as they please. Nor shall any Person, by Colour of Purveyance, take any Thing of any Subject without the Owner's Assent; nor shall require any to find Horses, Oxen, or other Cattle or Carriages for any King or Queen, &c. without Consent, as aforesaid.

And if any shall make Purveyance, or Purveyor impress any Carriage otherwise, one Justice and the Constable, at the Request of the Party grieved, may commit him to Gaol, and indict him next Assizes or Sessions, and the Party grieved may by Action recover treble Damages, and treble Costs against the Offender. 12 Car. 2.

cap. 24.

This A& confirm'd by 13 Car. 2. cap. 7. *Provisions*
But it being found to be too prejudicial made for
to the King, if the Subjects might not the King's
be forced at reasonable Rates to furnish Carriages
the King with Carriages: Therefore by a *in his Royal*
Statute 13 Car. 2. cap. 8. it was provided, *Progress.*
That the Clerk, or chief Officer of the
King's Carriages, three Days before his
Majesty's Arrival, should give Notice to
the two next Justices to the Place, to
provide such a Number of Carts and
Carriages, which the Constables upon their
Warrant are to press and provide, each
Cart furnished with four able Horses,
or four Oxen and two Horses, to be paid
six Pence a Mile for every Mile they go *6 d.a.Mile.*
laden, and to be paid in Hand at lading,
and not to go above one Day's Journey; *Forfeiture.*
which if any shall refuse without reasonable
Cause, he forfeits 40 s. to be levied
by the Constable on a Warrant.

And

And if the Justice or Constable take any Bribe, to spare any fit Person from such Carriages, or press more Carriages than directed, he forfeits 10*s.*

Provision for Carriages by Water for his Majesties Use. By the Statute 14 Car. 2. cap. 20. two or more Justices by Warrant from Commissioners of the Navy or Master of the Land and Ordnance, are to cause Constables to provide Carriages for twelve Miles round from the Place of Lading, who are to have 12*d.* a Mile for every Load of Timber, 8*d.* a Mile and 8*d.* a Mile for every Tun of other Commodities; and such as refuse (being warned) to send their Teams, forfeit 20*s.* But they must be paid in Hand, and are to travel no further, nor work any longer than the Justices shall order.

Soldiers. The Statute 3 Geo. cap. 3. enacts, That Constables are to provide Carriages on the Marching of Soldiers, (having Orders from a Justice of Peace) and being allow'd by the Officers for a Waggon and five Horses, or four Oxen and two Horses, or six Oxen, 1*s.* a Mile, and for a Cart and four Horses, 9*d.* per Mile.

But no Carriage is to travel more than one Day; nor obliged to carry above twenty Hundred Weight.

Constables neglecting or refusing to execute Justice's Orders, forfeit not exceeding 40*s.* nor under 10*s.*

The Constable's Office about pressing Men.
FOR recruiting the Forces during the War, by an Act made 2, 3 & 4 of Queen Anne.

The Constable with his Warrant signed by three Justices, may press any able-bodied Men which are in their Division, and who have no lawful Calling or Employment, or visible Means for their Maintenance; and bring them before the said Justices, who are to deliver them to some of his Majesty's proper Officers appointed to raise Men in that County, and the Officer must pay to the Soldier 20 s. (if he list himself voluntarily, he is to have 40 s.) and he must pay to the Constable 10 s. a Piece for each Man, and the Articles of War against Mutiny and Desertion must be read in the Presence of the Justices, and they must make a Certificate under their Hands and Seals, that it was read, and the Names of the Persons raised, to be delivered to the Officer, and afterwards, upon his Desertion, to be punished as a Deserter.

C H A P. VII.

The Constable's Office about Cloth, &c.

Constables, on Request to them made, *The Constables*, are to be aiding and assisting to the Wardens and Assistants, to regulate the *assize* the Trade of *Worsted* and other Stuffs, called *Wardens-Norwich-Stuffs*, made within the City of *Norwich* and County of *Norfolk*. 14 Car. I. a. Reg. Worsted, &c.

*Also the
Wardens
for Kid-
dermin-
ster Stuffs.*

Likewise upon Request, they are to be aiding and assisting to the President, Wardens, and Assistants, for regulating the Making of *Kidderminster-Stuffs*, within the Borough and Parish of *Kidderminster*; by the A&t 22 & 23 Car. 2. cap. 8.

The High Constable has a further Power about Clothiers and Spinsters, of which more hereafter, when we speak of the High Constable alone.

C H A P. VIII.

The Constable's Office about his Majesty's Customs, &c.

*Constables
to assist
those that
manage
his Majes-
ty's Cu-
stoms.*

ALL Constables, Headboroughs, and other the King's Officers of the Admiralty, Captains and Commanders of Ships, Forts, Castles, &c. and other the King's Subjects, are to be aiding and assisting to all and every Person and Persons, which are or shall be appointed to manage his Majesty's Customs, and if molested therefore, may plead the general Issue. 14 Car. 2. cap. 11.

*Constables
to search
for uncu-
stomed
Goods.*

House may

By the Stat. 12 Car. 2. cap. 19. Sheriffs, Justices and Constables, are upon Request to be aiding to any Person having a Warrant from the Lord Treasurer, or any of the Barons of the Exchequer, or chief Magistrate of a Port, for the Search of uncustomed Goods, who (with such Assistance) may enter into any House in the Day-time, where such Goods are suspected to be conceal'd: And in Case of Resistance

stance, may break open the House, and *be broke*
seize and secure such Goods.

But no House shall be entred by vertue *False In-*
of this A&t, but within a Month after the *formation*
Offence supposed to be committed: And and Da-
if the Information whercupon any House mages re-
shall be search'd prove false, the Party *covered,*
injur'd shall recover full Damages and
Costs against the Informer, in an Action
of Trespass. 12 Car. 2. cap. 19.

This A&t is confirmed by 13 Car. 2.
cap. 7.

Such as are authorized by Writ of *Af-Writ of*
sistance out of the Exchequer, are to take Assistance,
a Constable, Headborough, or other Officer,
inhabiting near the Place, and in the
Day-time, to enter into any House, Shop,
Ware-house, &c. And in Case of Resi-
stance, to break open Doors, Chests, &c.
and there to seize and bring away any *Seizure of*
prohibited and uncustomed Goods and *Goods.*
Merchandizes, and to secure the same in
his Majesty's Store-house in the next
Port. 13 Car. 2. cap. 11.

And the like Provision is made by a
Statute 1 W. & M. for prohibiting Trade
and Commerce with France.

Taxes and Aid-Money.

BY an A&t 2 W. & M. for granting
an Aid to their Majesties of the Sum
of 1651702 l. 18 s. viz. 137641 l. 18 s. 2 d.
by the Month, for twelve Months, from
25 Decemb. 1690.

Constables
Constables are to assist the Collectors to *distain*
to *distain*, and in the Day-time to break and *break*
open the Houses, and (upon Warrant *open*
from two or more of the Commissioners) *Houses,*
the &c.

the Chests, Trunks, &c. where the Goods are of such as refuse to pay their Assessments.

How to distrain when the Houses, &c. are unoccupied.

That where the Lands or Houses are unoccupied, and no Distress to be found, and thereby the Parish, &c. charged; the Collectors, Constable, or Tithingman of the Parish, Place, or Constablewick, at any Time after may enter and distrain upon the Lands or Houses; and the Distress, being the proper Goods of the Owner of the Lands, &c. if not redeemed within four Days, by Payment of the Tax and Charge of Distress, to sell, rendering the Overplus; and to distribute the Distress proportionably to the Parties who contributed to the Tax of the said unoccupied Lands.

How to levy the Tax upon Wood-lands.

If Wood-lands be assesse'd, and no Distress to be had, the Collector, Constable, upon Wood- &c. may by Warrant from two or more of the Commissioners of the Hundred, or Division, at reasonable Times in the Year, cut and sell so much Wood as will pay the Assessment behind, and the Charge incident thereunto, rendering the Overplus; and the Party to whom it is sold, may sell, cut down, and dispose of the same to his own Use.

How upon Tithes, Tolls, and annual Profits.

If the Assessment be upon Tithes, Tolls, or annual Profits, not distrainable, and not paid within fifteen Days after Demand; the Collector, Constable, &c. by like Warrant from the Commissioners, may seize and sell so much of the Tithes, Tolls, or other Profits so charged, sufficient for the Tax and Charges occasioned, rendering the Overplus, &c. 2 W. & M.

C H A P. IX.

*The Constable's Office about Di-
stress for Rent, &c.*

BY an A&t, second of K. Will. and Distress for
Q. Mary, where any Goods or Chat- Rent re-
tels shall be distrained for any Rent re- served upon
served, and due upon any Demise, Lease, Demise,
or Contract whatsoever; and the Tenant Lease or
and Owner of the Goods so distrained, Contract.
shall not within five Days (after such Di- Notice of
stress taken, and Notice thereof, and of the Distress
the Cause, left at the Dwelling-house, or
most notorious Place on the Premises,
charged with the Rent distrained for) re-
plevy the same according to Law: Then
in such Case the Landlord or Person di-
straining, may with the Sheriff, or Under-
Sheriff of the County, or with the Con-
stable of the Hundred, Parish, or Place,
where such Distress shall be taken (who
are required to be aiding and assisting
therein) cause the Goods and Chattels to be
be appraised by two sworn Appraisers appraised
(whom the Sheriff, Under-Sheriff, or and sold.
Constable are impower'd to swear) and af-
terwards sell the same for the best Price,
towards the Rent and Charges of Distress,
Appraisement and Sale, leaving the Over-
plus in the Sheriff or Constable's Hand,
for the Owner's Use. Stat. II. Matii, 1690.

secundo Willielmi & Maria.

And the like may be done as to Corn and
Sheaves or Cocks of Corn, loose or in the Hay di-
Straw; or Hay in any Barn or Granary, or strained for
on Rent.

on any Hovel, Stack, or Rick, (which before this A&t were not distrainable.)

Corn and Hay not to be removed till Default of Replevin, &c. But note; That these last mentioned Goods, &c. are to be removed from the Place where found and seiz'd ; but to be kept there, as impounded, until the same shall be replevied within the Time aforesaid, or sold in Default of such Replevin, &c.

II Maii, i W. & M.

By an A&t the 8th of Queen Anne, no Goods or Chattels whatsoever, lying or being, in or upon any Messuage, Lands, or Tenements, which are or shall be leased for Life or Lives, Term of Years, or otherwise, shall be liable to be taken by virtue of any Execution or Pretence whatsoever, unless the Party at whose Suit the said Execution is sued out, shall, before the Removal of such Goods from of the Premisses, by Vertue of such Execution, pay to the Landlord, or his Baillif, all such Sum or Sums of Money as are or shall be due for Rent for the said Premisses, at the Time of the Taking such Goods or Chattels, by virtue of such Execution.

Provided the said Arrears of Rent do not amount to more than one Year's Rent, and may proceed to execute his Judgment : And if the Tenant fraudulently convey, or carry off from such Premisses, his Goods or Chattels, with Intent to prevent them from being distrained, it shall be lawful for the Lessor or Landlord, or any Person empowered, within five Days, to take and seize such Goods and Chattels where-ever the same shall be found, and the same to sell, as if the said Goods and Chattels had actually been distrained by such Lessor or Landlord upon the Premises,

ses, for such Arrears of Rent: Provided, That this Act shall not extend to any Landlord, &c. to take any Goods which shall be sold (*bona fide*) for a valuable Consideration before such Seizure made, and that all such Goods so distrained, shall be sold as by Direction of the Act of the 2d of K. Will. and Q. Mary: See the Act just before.

CHAP. X.

The Constable's Office about Excise.

Excise-Men (*alias Gaugers*) when they *Constables* intend to enter by Night into the *to assist* Houses of Brewers, Victuallers, Distillers, Gaugers &c. to gauge their Coppers, Fats, or Vessels, or take an Account of their Beer, *cise-Men*. Alc, Wort, Perry, Cyder, Strong-Waters, &c. brewed, made, or distill'd there, are to take a Constable along with them.

12 Car. 2. cap. 23, 24.

Brewers refusing a Gauger Entrance with a Constable forfeit 20*l.* And a Door may be broke open in the *Day-time*, in the Presence of a Constable, to discover Frauds.

Also Constables, &c. upon Warrant to *To levy Penalties up-* them directed from the Justices of Peace, *nalties up-* are to levy the Penalties upon the Goods *on the Of-* of the Offenders against the Acts for Ex-*fenders a-*cise, by Distress and Sale thereof, ren-*gainst the* dring the Overplus; and for Want of Di-*Acts of* stress to carry the Party to Gaol till Sa-*Excise.* tisfaction be made. 12 Car. 2. cap. 23, 24.

The

To summons The Constables are also, from Time to Time, upon Warrant to them directed, to Brewers, summon all Alehouse-keepers, &c. to appear before the Commissioners of Excise, the Commissioners at the Days and Places in such Warrants appointed.

C H A P. XI.

About Fish.

*Constables
are to levy
the Penalties
upon such as
destroy the
Spawn of
Fish.*

Constables and Church-wardens, by Warrant from a Justice of Peace, are to levy the Penalties upon such as destroy the Spawn and Breed of Fish along the Sea-shoar, or in any Haven or Creek, or within five Miles of the Mouth of any Haven or Creek, by fishing with Nets of a less Mesh than three Inches and an half between Knot and Knot, (except for the Taking Smoulds in Norfolk only) or with a Canvas Net, or other Engine: The Penalty is 10 s. to be levied by Distress and Sale of the Offender's Goods.

Note, That in Corporations, the Penalty may be levied by the Head-Officers,
3 *Fac. cap. 12.*

*To search
for Nets
and En-
gines, used
to destroy
Fish.*

Also Constables, upon Warrants from the Justices of Peace in the Counties of Worcester, Salop, and Gloucester, are to search for unlawful Nets or Engines (used to take Fish in the River of Severn) in all suspected Houses, and to seize the unlawful Instruments, and bring them to the Quarter-Sessions, to be destroyed. *Stat. 30 Car. 2, cap. 9.*

C H A P. XII.

About French Goods, &c. prohibited.

No one shall sell or offer to Sale, ex-Constables, port, or import Foreign Bone-lace, &c. to Cut-work, Embroidery, Fringe, Band-search for strings, Buttons or Needle-work of Thread French, or Silk, on Pain to forfeit for Selling, or Goods imported, offering to Sale, as aforesaid, 50 l. and ported. the Goods themselves; and for Importing, 100 l. and the Goods imported, the one Moiety to the King, the other to him that will sue in Court of Record.

And the Constables upon Warrant to them directed from the Justices of Peace, are to search for such Manufactures in Shops, being open Ware-houses, and Dwelling-houses, and to seize them. Stat.

13 & 14 Car. 2. cap. 13.

By an Act primo Williel. & Mar. for French prohibiting Trade with France, Wines, Goods to be Vinegar, Brandies, and other liquid destroyed. Commodities, single or mix'd, shall be staved, spilt and destroyed; and Linens, Silks, Paper, and other Commodities, mix'd or unmix'd, shall be publickly burnt and destroyed; and such Persons as presume to take up or save any of the said Commodities so to be destroyed, shall forfeit 40 s. over and above the Value of the Goods.

And the Persons importing, shall forfeit the full Value thereof: And the Persons keeping or selling any such prohibited Goods, shall for the first Offence, forfeit

Forfeitures forfeit the full Value thereof ; for the second, double the Value, and be disabled to execute any publick Employment whatsoever. And any Person may seize such Goods, in whose Custody soever, to the Intent they may be destroyed.

And every Informer or Prosecutor, that shall by Collusion or Fraud desist or delay his Prosecution for any Offence against this A&t, shall upon Conviction forfeit 500 l.

Constables to be aiding. And all Sheriffs, Mayors, &c. Constables and other Officers, are enjoined to be aiding in the due Execution of this A&t, in Reference to the Commodities aforesaid.

Imprisonment.

Ship.

Forfeited 500l.

Imprisonment.

If any Person, not being a known Merchant, Vintner, or Shopkeeper, shall sell or expose to Sale any such prohibited Goods, after Conviction in his Majesty's Court of Record, shall suffer twelve Months Imprisonment without Bail, above the Penalties aforesaid.

The Ship or Vessel in which they are imported, shall be forfeited, and all the Furniture, &c.

And the Master, or other Person, having Care of the Ship or Vessel in the Voyage, or out of which any such prohibited Goods, shall be unship'd either at Sea or in Harbours, &c. into any Hoy or Boat, shall forfeit 500 l. And the Justices may by Warrant apprehend him, and upon the Fact proved by two Witnesses on Oath, may commit him to the next Gaol for twelve Months, without Bail or Mainprize.

And the Seamen, Mariners, or any other Person assisting at the Unshipping or Conveying of any the said Commodities,

ties, either by Land or Water, shall upon *Seamen*, such Proof, be subject to like Imprison- &c. whipp-
ment, or be publickly whipp'd at the *ped.*
Discretion of the Justice of Peace, before
whom he shall be convicted.

And the Carts and other Carriages, and
the Cattle moving the same, shall be
forfeited, one Half to the Poor, and the
other to the Seizor.

C H A P. XIII.

About Highways, Scavengers, Streets and Bridges.

TH E Constables and Church-war-Constables, drens of every Parish, shall yearly &c. to upon Tuesday or Wednesday in Easter choose Surveyors. Week, call together some of their Neighbours, and then make Choice of two within the Parish, to be Surveyors of the Highways the Year following; who shall forthwith take that Office upon them, in Pain to forfeit 20 s. a Piece. The said Constables and Church-wardens shall then also nominate six Days betwixt that Time and Midsummer, to be set apart for the Amendment of the Highways, and shall give publick Notice thereof in the Church, the next Sunday after Easter. Stat. 2 & 3 Phil. & Mar. cap. 8.

Stat. 5 El.
cap. 13.
22 Car.
cap. 12.

By Stat. 22 Car. 2. cap. 12. they are to be chosen some Day in Christmas Week, by the Constables, &c.

The Stewards in Leets have Power to Fines upon enquire after the Breach of this Act, and such as to set Fines upon such as make Default, make Default at fault.

at their Discretion; and shall within six Weeks after *Michaelmas*, deliver indented Eſtreats thereof under their Hands and Seals, viz. one to the Bailiff or High Conſtable of the Liberty; and the other to the Conſtables and Church-wardens of the Parish where the Default was made 2 & 3 P. & M. cap. 8.

And in Default of Preſentment thereof in Leets, the Juſtices of Peace in Sessions ſhall enquire thereof, and ſet ſuch Fines as they, or two of them (one to be of the *Quorum*) ſhall think fit, whereof the Clerk of the Peace ſhall deliver indented Eſtreats under his Hand and Seal, within ſix Weeks of *Michaelmas*, in Manner, as aforesaid: And theſe Eſtreats of the Stewards of Leets or Clerk of the Peace, ſhall be a ſufficient Warrant for the Bailiff or Chief Conſtable, to levy the ſaid Fines by way of Distress; and if no Distress can be found, or the Party do not pay the Fine within twenty Days after lawful Demand thereof, he or they ſhall forfeit double ſo much: All which Fines and Forfeitures ſhall be employed towards the Amendment of the Highways. 2 & 3 P. & M. cap. 8.

The Bailiff, or High Conſtable, ſhall yearly (betwixt the firſt of *March* and laſt of *April*) render unto the Conſtables and Church-wardens, unto whom the other Part of the Eſtreats was delivered, a true Account of the Money received by him, in Pain of 40 s. And the ſaid Conſtables and the Church-wardens have Power to call the ſaid Bailiff or High Conſtable before two or more Juſtices of Peace, (one to be of the *Quorum*) to paſs his Account, who have Power to commit him, until he ſhall have ſatisfied all the Arrearages

by him received, save eight Pence in the Pound for his own Fee, and twelve Pence in the Pound for the Fee of the Steward or Clerk of the Peace; and in this Case the succeeding Constables and Churchwardens have the same Power that their Predecessors had. 2 & 3 P. & M. 8.

The Fines assed in Sessions upon the Statute of 5 Eliz. 13. shall be estreated by the Clerk of the Peace, levied, accounted and employed, as by the Statute 2 & 3 P. & M. 8. is provided.

Note, That by an A^t 20th Decemb. *The Acts* 2 Will. & Mar. for paving, and cleansing for clean-
the Streets in *London* and *Westminster*, the *sing* the
Out-Parishes in *Middlesex*, the Borough Streets,
of *Southwark*, and other Places within the &c.
weekly Bills of Mortality, in the County
of *Surrey*.

It is enacted, That every Person of the Inhabi-
Parishes in *Middlesex*, *Westminster*, *South-tants to*
wark, and weekly Bills of Mortality, are *sweep the*
twice in every Week, *viz.* Wednesday and Streets be-
Saturday, to sweep the Streets before fore their
their respective Houses, Walls, and other Doors.
publick Places, that the Dirt may be rea-
dy for the Scavenger, upon Penalty of
3 s. 4 d. for every Neglect.

They are not to throw any Dust, Dirt, *Penalties*
or Filth, in the Streets or Alleys, &c. on such as
upon Penalty of 5 s. not to cast any Filth *throw* *Dirt*
or noisome Thing into any publick Sink, *in the*
Vault, Water-course, or common Sewer, Street.
or Highway, or into any private Vault
or Sink, of any other Person, but are to
keep it till the Scavenger come, and then
deliver it them, upon Penalty of 20 s. for
every Offence.

**Keepers of his Majesty's Houses, his Maje- Stables, &c. and Keepers of Courts of Ju-
sty's Houses stice, and other publick Places, are liable
&c. to these Forfeitures.**

Hooping They forfeit 20 s. who hoop, wash, or
and wash- cleanse any Pipes, Barrels, or other Ves-
ing of Bar- sels, in any Streets, Lanes, or open Pas-
rels, &c. in Sages ; and they forfeit the like who set
the Streets out any Dung, Soil, Rubbish, or empty
Coaches to make or mend, or rough Tim-
ber, or Stones to be fawn or wrought in
the Streets.

Penalties Scavenger every Day, except Sunday,
on the Sca- shall bring Carts, &c. and give Notice by
vengers. Noise, and stay a convenient Time, till
Dust, &c. be brought out to them, on
Forfeitures Penalty of 40 s. for every Neglect.

Open Streets All open Streets shall be repaired by
House-holders, and where the Houses be
how to be empty, by the Owners; upon Penalty to
repaired. forfeit 20 s. for each Perch, and 20 s. for
Forfeitures every Week after, till sufficiently paved.

New Streets, One Justice of Peace or more, where
any new Street is made, may view it,
how to be and (if judged fit to be paved) to certify
paved. under Hand to the next Quarter-Sessions
Forfeitures of the Peace, who are to order therein
as they shall think fit; and the Owners
of every New-built House, or Inhabitants,
are required to obey such Orders, or the
Offenders forfeit forty Shillings for each
Perch, and the like for every Week, till
the same be paved.

This not to invalidate any Custom or
Parishes of Usage to the contrary.

St. Ann, &c. The Parishes of St. Ann, and St. James,
Rates in the Liberty of Westminster, shall choose
and other Scavengers as by former Acts, and the
Things, Rates, and all other Things shall be ac-
Custom of cording to the Custom and Usage of the
the City. said

said City, where not otherwise in the said Acts provided.

All the other Places and Parishes, upon *Scavengers* Monday or Tuesday in *Easter-Week*, by *how to be* the Constable, Church-wardens, Overseers, *chosen*, Surveyors of the Highways, and other Inhabitants shall make Choice of two or more able Tradesmen to be Scavengers for the Year next ensuing, and until others be chosen, &c. who being approved *Penalties* and confirmed under Hand of two Ju-*upon Sca-* stices, shall within seven Days take the *vengers re-* Office upon them, upon Pain to forfeit *fusing to* 10*l.* In which Case others to be chosen *act.* in Manner aforesaid, within seven Days after such Refusal, who shall be liable to the like Forfeitures.

The said Penalties to be levied by Di-*Constables* stress and Sale, by Warrant from one Ju-*to levy* stice of the Place, directed to the Consta-*these Pe-* bles or other Officers of the same Parish, *nalties by* or any two or more of them, rendering the *Distress.* Overplus; reasonable Charges to be de-ducted for making the Distress.

The said Penalties to be paid to the *Penalties* Surveyors of the Highways, and disposed *how to be* of by them towards Mending and Repair-*disposed of.* ing the Highways and Streets of the same Parish, Ward, or Division.

In Default of Distress, within six Days *Imprison-* after Demand, and not paid, or after No-*ment for* tice in Writing left at the House, be com-*lack of* mitted to common Gaol by any Justice, to *Distress.* remain until Payment.

Within twenty Days after the Election *Constables*, and Confirmation of the Scavenger, the &c. to Constables, Church-wardens, and Over-*make a* feers, Surveyors, or the greater Number Tax for of them, shall make a Tax to a Pound-*the Sca-* Rate upon the Inhabitants, which, allow-*venger, to*

be paid by ed by two Justices, and being equal and
the Inhabi- reasonable, shall be quarterly paid upon
tants. Demand to the Scavenger.

Distress. In Case of Refusal, shall by Warrant
Imprison- of two Justices be levied by Distress, &c.
ment. and for Want of Distress, by Imprison-
 ment till Payment.

Scavenger Money collected, shall be accounted
to account. for by the Scavenger to two of the next
 Justices, within twenty-eight Days after
 a new Scavenger elected.

And what remains in Hand, to be paid
 to the new Scavenger.

Refusal to Those who refuse to account, shall be
account committed to Prison, to remain without
and Impris- Bail until a true Account made, and what
onment. in their Hands paid, &c.

Assessment For repairing several Highways in the
for Repair said Parishes, an Assessment may be made
of the on all Inhabitants, &c. to be allowed by
Highway. the Justices at their Quarter-Sessions, and
 levied by such Persons as they shall di-
 rect. And what raised, to be employed
 according to the Directions of the Justices
 towards Repair of Highways, and to be
 levied by Distress and Sale, if not paid
 within fourteen Days.

Assessment No such Assessment shall exceed in any
what. one Year, 4 d. in the Pound for Real, and
 8 d. per Pound for Personal Estates.

Penalties The Wheels of Carts, Carrs, and Drays,
on such as used for Carriage from Place to Place in
make the the Cities of London and Westminster, and
Wheels of Parishes aforesaid, where the Streets are
their Carts, paved, shall contain six Inches in the Fel-
 contrary to ley in Breadth, without any Iron-work,
the Statute and to be drawn only by two Horses, after
 they are up the Hills from the Water-side,
 upon Penalty of 40 s. every Time, to be
 levied, as aforesaid. But this A& not to
 extend

extend to Country Carts, or Waggons, bringing Goods to the Cities or Places aforesaid; or that shall carry any Goods half a Mile beyond the Paved Streets of the said Cities and Places.

And note further, That no Person in *Forfeitures* *London, Westminster, Southwark, or the Pa-* *on Hogs-*
rishes aforesaid, shall breed, feed or keep *keepers in*
any Sort or Manner of Swine within any London,
Part of the Houses or Backsides of the Westmin-
Paved Streets, where the Houses are con- ster, &c.
tiguous, upon Pain of forfeiting them to *The Swine*
the Church-wardens and Overseers of the &c. for
Poor of the Parish, for the Use of the feited.
Poor.

The Constable, Church-wardens, Cha- *Constables,*
pel-wardens, Overseers, Beadles, Head- *&c. may*
boroughs, or Tithingmen of the respective *Search and*
Parishes, &c. or any of them, may by *seize such*
Warrant from the Mayor of *London, or Swine.*
any other of His Majesties Justices of the
Places respectively, search to find such
Swine, and to seize and sell them; and to
deliver the Money to the Church-wardens,
or Oversees, to be distributed to the Poor,
as they shall think fit.

And for cleansing and keeping clean the London
Streets, Lanes, and Passages of *London, Streets,*
and the Liberties thereof, It is enacted, how to be
That the same shall be ordered and ma- *cleansed*
naged, and Rates and Impositions laid *and kept.*
and levied, and all other Ways and Means
used and observed, according to the an-
cient Usage and Custom of the said City.

The Lord Mayor, or any Alderman of *Nusances*
the City upon his own proper Knowledge *there pre-*
and View may present in open General *sented.*
Sessions, the laying of any Ashes, Soil,
Dust or Rubbish, or other Nusance or
Obstruction in the Streets, Lanes, or Pas-

*Fine asses-
sed and
levied.* fages : And the Lord Mayor and Justices at the Sessions may thereupon immediately assess Fines, not exceeding 20 s. for any one Offence ; and the Fines shall be levied and paid to the Chamberlain of the City, for the Use of the City, to be employed in the publick Payments of the same City.

*General
Issue plead-
ed, and
Acts given
in Evi-
dence.* And such as shall be prosecuted for acting by Virtue of this Statute, or the Statute made 23 Car. 2. for the better Paving and Cleansing the Streets and Sewers in and about the City of *London*, may plead the General Issue, and give the said Acts or either of them in Evidence,

2 W. & M.

*New Act,
1 Geo.* By the Stat. 1 Geo. ca. 48. the Justices in Quarter-Sessions have Power to appoint Scavengers, and order the Repairing and Cleansing the Streets in any City or Market-Town in *England*, and direct Persons to make Assessments on all Owners and Occupiers of Lands & Houses, not exceeding 6 d. per Pound per Ann. to defray the Charge of such Scavengers.

And if the Tax be refus'd Payment, in eight Days, it may be levied by Distress, &c.

*Tax for
Repair of
Bridges in
the High-
ways.* Four Justices are authorised to allow a Repair of Tax, for Repair of any decay'd Bridges in the Highway ; which must be assessed by the Constable, and two of the sufficient Inhabitants in the Parish.

But this is where a Common Bridge in the King's Highway is in Decay, and that it cannot be proved, who, nor what Lands are chargeable to the Repairing thereof.

Stat. 22 H. 8. cap. 5.

C H A P. XIV.

About Horses.

Constables have something to do in as-*Constables* listing such as seize (for any Man to measure may seize) Ston'd Horses of lesser Stature *Stoned* than is allowed by the Statute, and to *Horses*. measure the same; *viz.* any Ston'd Horse being Two Years old, and not Fifteen Hands high, from the lower Part of the Hoof to the upper Part of the Wither, on Pain of 40 s. between the King and Prosecutor, such Horses being put to feed upon Forests or Commons, (except Commons where Mares are not usually kept)
Stat. 32 H. 8. 13. 1 Eliz. cap. 1.

Bnt if such Horses make an Escape into a Common, he is not to be questioned.

Fen-Grounds of the Isle of Ely, and of the Counties of Cambridge, Huntingdon, Northampton, Lincoln, Norfolk or Suffolk, are excepted, and there the Horses need be but Thirteen Hands high. *Ibid.*

Constables also are to assist at Michaelmas, or within Fifteen Days after, to drive *And to assist* *sift at the* Forests and Common Grounds, on Pain of *Driving* 40 s. And they may also drive them at *of Forests.* any other Time; and so may the Keepers and Owners of the Ground. *32 H. 8. ca. 13.*

This Act extends not to Cornwall.

C H A P. XV.

*About Preservation of the Game,
and Deer-Stealing.*

*Constables
to search
for Dogs,
Nets,
Snares,
and En-
gins.*

COnstables, &c. upon a Warrant under their Hands and Seals of two or more Justices of the Peace, have Power to search the Houses of Persons suspected, and not qualified to keep Setting-Dogs, or Nets, Snares and Engins, to take Pheasants or Partridges, &c. and may take away their Dogs, and cut their Nets, &c.
Stat. 7 Jac. cap. 11. 22 & 23 Car. 2. ca. 25.

Also to levy, upon a Warrant from a Justice, by Distress, the Forfeiture of such as course, kill, hurt, or take away Deer, Conies, &c. in Parks, Warrens or other Grounds, where they are kept. *13 Car. 2. cap. 10. 22 & 23 Car. 2. cap. 5.*

See Wingate's Abridgment, Tit. *Hunters and Hunting.*

*Qualifica-
tion.*

The Qualification. None shall shoot, nor course, unless he has 100*l. per Ann.* or Lease of Ninety-Nine Years of 150*l. per Ann.* other than the Son and Heir of an Esquire, or other Person of higher Degree, Owners or Keepers of Forests, Chases, Parks or Warrens.

By an Act 5th Anne, the Constable may carry any Higler, Chapman, Carrier, Inn-keeper, Victualer or Alehouse-keeper, before any Justice of the Peace for the County, for having in his Custody any Hare, Pheasant, Partridge, Moor, Heath-Game or Grouse, or who shall buy or

or sell any such (unless such Game be sent up by Persons qualified) and they shall, by the Oath of one Witness forfeit 5*l.* Half to the Poor, and Half to the Informer, to be levied by Distress, and for Want of Distress, to be sent to the House of Correction for Three Months ; and for every other Offence Four Months. The Constable may carry any Person not qualified by the Oath of one Witness before a Justice for keeping any Grey-hound, Setting Dog, Hays, Lurchers, Tunell, or any other Engin to destroy the Game, and being convicted, shall forfeit 5*l.* to be levied as aforesaid.

Game-keepers are to be enter'd with the Clerk of the Peace, to be qualify'd, or be Servants to Lords of Manors, under the like Penalties. *Stat. 3 Geo. cap. 11.*

The Penalties on Deer-Stealers are to be levied by Constables, by Virtue of a Justice's Warrant; and the Forfeitures are 20*l.* for Coursing or Hunting; and 30*l.* for Taking and Killing any Deer; one Third to the Poor, another to the Informer; and the other Third to the Owner of the Deer. *Stat. 3 & 4 Will. & M.*

Deer-Stealers may be sent to the Plantations for seven Years, by *5 Geo. New Act.*

C H A P. XVI.

About Malt.

*Constables
to view
and sell
Malt badly
made.*

*When
Malt may
be said to
be badly
made.*

Forfeitures

Onstables and Bailiffs of Towns ought to view and search the Malt there made and put to Sale; and if they find any ill or deceitfully made or mingled, they may with the Advice of any one Justice of Peace, cause the same to be sold at such Rates as the Justice shall think fit.

And therefore observe, That Malt is said to be ill made, and deceitful, if in the Making thereof it be not in the Fat-floor, steeping and drying three Weeks at the least (except in *June, July or August*, and then Seventeen Days may serve): Also when by Rubbing, Treading, and Fanning, the Makers have not taken out of every Quarter half a Peck of Dust, or more; (for which Neglect he forfeits

20 d. a Quarter, for every Quarter thereof sold) or if it is made of Mow-burnt or spired Barley, or mixed good and bad together, (for which Mixing the Seller forfeits 2 s. for every Quarter thereof sold); and these Forfeitures are to be divided betwixt the King and the Prosecutor, and the Prosecution must be within one Year.

But this extends not to such as make Malt for their own Provision. *Stat. 2 Ed. 6.
cap. 10. 21 Fac. 1. cap. 28.*

See Dalton's Just. Peace, fo. 87.

C H A P. XVII.

About Physicians.

Constables and other Officers in London, Constables and within Seven Miles round, are to aid the be aiding and assisting to the President of College of the College of Physicians; and all Persons Physicians authorized by the said College, for the due Execution of the Laws and Statutes relating to the said College. *Stat. 1 M. Parl. 1. Sess. 2. cap. 9. 14 H. 8. cap. 5.*

C H A P. XVIII.

About the Plague.

IF the Constable command any Person Constables infected with the Plague (from which to punish the Lord in Mercy deliver us) to keep such as be his House, and notwithstanding such ing inf- Person shall wilfully go abroad and con- fted, go a- verse in Company, having any infectious broad. Sore on him, it is accounted Felony in such infected Person so to do; and tho' he shall have no Sore appear about him, he may for his Offence, by the Appoint- ment of a Justice of Peace, be punish'd as a Vagabond, and also bound to his Good Behaviour for a Year.

Also the Constable, or other Officer, Money for which wilfully neglects to levy the Tax, as the Relief shall be appointed by the Justices or Head of the poor Officers Infected.

Officers, for the Relief of the Poor infected with the Plague, forfeits for every Offence Ten Shillings. *Stat. 1 Jac. I. c. 31.*

C H A P. XIX.

About Quarter-Money for maimed Soldiers, &c.

Constables to levy **C**Onstables and Church-wardens are to levy by Distress and Sale all Money rated on any Person, within their respective Limits, for the Relief of poor maimed Soldiers and Mariners, and are to pay it to the High-Constables, upon the Forfeiture of 20 s.

Poor Prisoners. They are also to levy such Rates as are made for Relief of Prisoners in the King's Bench and Marshalsea, &c. and pay it to the High Constables, on Pain of 10 s. *Stat. 43 Eliz. cap. 3.*

Quartering Soldiers.

Soldiers, how to be quarter'd. **N**O T E, That Constables, Headboroughs, and other chief Officers of Towns and Villages within *England, Wales, and Berwick*, and no others, are to quarter and billet Officers and Soldiers in His Majesty's Service in Inns, Livery-Stables, Ale-houses, Victualling-houses, and all Houses selling Brandy, Strong-waters, Cyder or Metheglin by Retail, to be drunk in their Houses, and no other; and in no private Persons whatsoever.

And

And if any Constable, &c. shall quarter Soldiers upon any private House, without Consent of the Owner, he shall be liable to the Parties Action for Damage.

If any Military Officer shall take upon him to quarter Soldiers otherwise, or abuse the Mayor, Constable, &c. or menace them to discourage them in their Duty, by this Act, such Military Officer shall be *ipso facto* cashier'd.

C H A P. XX.

About Tobacco.

THE Acts for preventing Tobacco-*Tobacco* planting, being expiring, were re-*planted*, vived 19 *Maii*, 1 *Jac. 2.* for Seven Years, &c. to be and thence to the End of the next Ses-*destroyed* fition. And by these Acts, all Sheriffs, Ju-*by the Con-* stices, Constables, &c. upon Information, *stables, &c* that there is any Tobacco set, sown, or planted, or growing within their Pre-*cincts*, are within Ten Days to cause the same to be burnt, pluck'd up, or de-*stroyed*, except it be in a *Physick-Garden*, *Exceptions* or in other private Garden, and not ex-*ceeding* one Half of a Pole, in any one Place or Garden. 12 *Car. 2. cap. 34.*

Persons resisting the Officers, forfeit *Forfeitures* 5*l.* and may be committed till they en-*and Com-* ter into Recognizance with Sureties, *not mitment.* to do the like again. *Ibidem, & Stat.* 15 *Car. 2. cap. 7.*

*Present-
ment and
Conviction.* The Constables are also upon Warrant, to search and present at the next Quarter-Sessions, the said Offence of sowing; planting, or making Tobacco, and their Presentment shall be a Conviction, except the Party traverse the same. *Stat. 22 & 23 Car. 2. cap. 26.*

*Constables
forfeiture.* And by this last Statute, Constables, Tithingmen, &c. are within Fourteen Days after Warrant from Two Justices, to destroy all Tobacco planted, or growing in any Ground, upon Forfeiture of 5*s.* for every Rod unconsumed, and so proportionably betwixt the King and Prosecutor.

*Forfeitures
of Persons
resisting.* Persons resisting shall forfeit 5*l.* to be levied by Distress and Sale, or be committed for Three Months, and such as refuse to assist the Constable, upon Conviction before Two Justices, forfeits 5*s.* or to be committed for a Week. *22 & 23 Car. 2. cap. 26.*

Exception. Physick-Gardens, and Gardens for Chirurgery are excepted: The Officers and Assistants, being sued hereupon, may plead the General Issue, and give the special Matter in Evidence. *Ibidem.*

C H A P. XXI.

About Weights and Measures.

*Where
common
Weights,
&c. ought
to be kept.* IN every City, Borough, and Market-Town, there ought to be common Weights and Measures sealed, at which the Inhabitants may freely weigh, and to be kept. the chief Officers of such Places, whether they

they be Constables, Bailiffs, &c. are upon Request to mark and sign such Weights *Weights to* and Measures to any of the King's Subjects be marked. jets, taking for the Marking of every Bushel one Penny. Stat. 8 H. 6. cap. 5.

Stat. 11 H. 7. cap. 4.

And Constables are required to search Constables and examine, if any buy or sell by any to search other Bushel than *Winchester Measure*, for, seize which contains Eight Gallons to the Bushel and break or Strike, and sealed by the Clerk of the *unlawful Market*; and if any Person doth not *Measures*. strike the same even with the Brim; and any Constable may seize and break such other Measure, and present the Offender at the next private or *Quarter-Sessions*.

Stat. 22 Car. 2. cap. 8.

CHAP. XXII.

The Power and Duty of a High Constable alone, as it is limited to him in particular.

THE High Constable, or Constable *High Constable* of the Hundred, may hear and determine the Complaints of Clothiers, Drapers, their Carders, Spinners, and other Clothiers, Labourers. For by the Statute of 4 Ed. 4. &c. chap. 1. Clothiers and Makers of Cloth are to pay their Carders, Spinners, and other Labourers in ready Money, and not in little Wares, or other Things, upon Pain to forfeit three times so much as their Wages. And they must deliver *Forfeitures* them their Wool by due Weight, and the Carders,

*Commit-
ment.* Carders, Spinners, Fullers, Dyers, Sheermen, and other Labourers, must do their Work faithfully, upon Pain of forfeiting double Damages; and the High Constable may upon due Examination of the Parties, determine the Duties, Forfeitures, and Damages, and upon Non-payment of the same, may commit the Party to the Gaol, till Payment be made.

*High Con-
stables to
search,
seize and
sell Tenters
&c.* This High Constables are also impowered to enter into any Place, to search for any Tenters, Ropes, Rings, Head-wrenches, or other Engins for stretching of Cloth; and if they find any, to deface them; and if the Owners shall afterwards make Use of them, the High Constables, may seize and sell them, and distribute the Money to the Poor. *Stat. 39 Eliz. cap. 20.*

*Constables
to pay over
the Money
for the Re-
lief of poor
Prisoners.
Penalty.* It is also the Duty of the High Constables, to pay over to the Collectors, what Money pointed by the Justices at the Quarter-Sessions, what Money they receive from the Church-wardens, assedged on any Parish for the Relief of poor Prisoners, and this they must do on the Penalty of 5*l.* *Stat. 14 Eliz. cap. 5.*

And they are to pay over as aforesaid, what Money they shall so receive for the Relief of poor Prisoners, in the King's Bench and Marshalsea, under Pain of Twenty Shillings.

*Maimed
Soldiers,
&c.* And so of Money receiv'd for the Relief of maimed Soldiers, and Mariners, upon Pain of Forty Shillings. *Stat. 43 Eliz. cap. 3.*

See before, Chapter about *Distress, Highways, Quarter-money, &c.*

C H A P. XXIII.

*Concerning the CONSTA-
BLES of London.*

TH E R E is some Difference both in *Difference* the Election, Oath and Office, of *between* these Constables, and the Constables before treated of, though their Office in *Constables* common extend to such Things as are generally spoken of before; yet by Custom and A&ts of Common Council, there are some Particulars wherein they vary: And therefore observe,

That such as may be Constables in *London*, are to be Freemen of the City.

This City is divided into Twenty Six *Constable* Wards, and every Ward into Twenty Six of the Pounds or Precincts, and for every Pre-Ward, *cinct* there is a proper Constable.

These Constables are nominated and *Constables* represented by the Inhabitants of the Parish or Precinct, in the Vestry; and appointed. On St. St. Thomas's-day, at the Wardmote (if Thomas thought fit) confirmed, or else excused, day, and another appointed in his Place. Twelfth-

After they are approved and confirmed day, at the Wardmote, they are to appear in *Guild-hall*, at the Court of Aldermen, there holden on Monday next after *Twelfth-day* to be sworn. See *Calthrop's How Reports, page 129.* *sworn.*

The Substance of their Oath is,

First, To keep the King's Peace to their *The Oath.* Power.

Secondly, To arrest such as make Affrays, Riots, Contests, or Debates in Breach

Breach of the Peace, and to lead them to the House or Compter of one of the Sheriffs, and in Case of Resistance, to make Outcry on them, and to pursue them from Street to Street, and from Ward to Ward, till they be arrested.

Thirdly, To search (at such Times as they shall be thereunto required, by the Scavengers or Beadles) the common Noysance of their respective Wards, and upon the like Request to help the Beadle and Raker to gather their Salary and Quarterage.

Fourthly, To present to the Mayor and Ministers of the City such Defaults and Things as in their respective Wards, are done against the Ordinance of the City.

Fifthly, To certify to the Mayor and Common Council of the City, the Names of such Persons that let or hinder these Constables in the doing their Office.

Sixthly, To certify and shew (once at the least in every Month) to one of the Clerks of the Mayor's Court, and in the same Court, the Names and Surnames of all Freemen, which they know to be deceased, within the respective Parishes where such Constables inhabit; and also the Names and Surnames, of all the Children of all such Freemen so deceased, being Orphans of the City.

Note, It is allowed, That such Person, as is nominated and chosen for this Office, may hire a Deputy to serve in his stead; and if the Deputy be thought fit and duly qualified for the Place, he is to be sworn, and must answer for his own Defaults.

*Deputy
hired.*

*Deputy
Sworn.*

*The Arms
of the King* Such as are chosen and admitted to the Office of Constable in London, are obliged to

to put the King's Arms, and the Arms of *and the*
the City over his Door, or (if he live in City.
an Alley) at the End of the Alley towards
the Street, to signify, that a Constable
lives there.

Note also, That a Constable of London, *The Extent*
hath Power to serve Warrants, and exe-*of a Lon-*
cute his Office (if required) throughout *don Con-*
stable's the whole City.

* It appears by the Articles of the Authority,
Wardmote Inquests, That every Consta-*as to War-*
ble is from Time to Time to certify to *rants, &c.*
that Inquest the Name, Surname, Dwel-** To certi-*
ling-place, Profession and Trade of every *fy Names*
Person, who shall newly come to dwell and Dwell-
within his Precinct, and to make and to *lings.*
keep a perfect Roll thereof.

Also to search and enquire, at least
once a Month, what Persons be newly
come to lodge and sojourn there: And if
he find by their own Confession, or by
the Record of any of the Books of any
Alderman of the City, That such new
Comers are indicted, or cast out of any
other Ward for their bad Life and Di-
sturbance, and refuse to find Sureties for
their Good Behaviour, they, and their
Landlords, or Receivers, are to have *Warning*
Warning, that they depart, and if they *to depart*,
refuse to depart, they may be imprisoned, *Imprison-*
and their Landlords fined to as much, as *ment.*
he was to have Rent for one Year, for his *Fine.*
House or Room so let to these new Comers,
Calt. Rep. 138.

The common Prison for Offenders in *The com-*
London, are *Bridewell* and the *Compters*; to *mon Pri-*
the last of which the Constables may send *sons of*
such Persons as are taken upon the Watch *London*,
abroad late at Night, and appear unruly
or suspicious.

And

*About
keeping
Watch in
the City.*

And as to keeping the Watch in this City, you may observe, That in every Ward there are a certain Number of Watchmen appointed by Act of Common Council: And by Custom, all the Constables in each Ward attend by Turns, one every Night, according to his Turn, to go the Rounds, and take Care of such other Things as belong to his Office.

And the Constable and Beadle, every Night, are to warn such Persons as are to watch in their several Precincts; and if those warn'd do not appear, the Constable usually appoints hired Men in their steads, who are to pay the Constable therefore, according to the Custom of the City; and if they refuse to pay, the Lord Mayor will compel them.

CHAP. XXIV.

Of the Duty and Office of Churchwardens.

*Church-
wardens
how chosen*

These Officers are very Ancient, and are to be chosen in every Parish yearly, by the Consent of the Minister and Parishioners in *Easter-week*. If the Minister and Parishioners cannot agree in their joint Choice, then the Minister may choose one and the Parishioners another. *Book of Canons, 1 Fac. 1.
Anno 1604.*

Custom.

But this Canon shall not prejudice a Custom to choose otherwise.

These

These Officers are to take Care for the *Their Care*
Providing and Preservation of the Goods
of the Church; as the Books, Communion-
Plate, and other decent Ornaments and
Furniture of the Church, during their
Office.

And they may by the Name of Church-
wardens, purchase moveable Goods or *How they
Chattels; and also sue or be sued, for or
about such Goods, for the Use and Benefit
of their Parish.* 12 H. 7. fo. 27.

And if they be once possessed of any *Action for
Goods or Ornaments belonging to the taking
Church, and any Person steal them, take Goods out
them away or abuse them, they or their of their
Successors may have their Remedy at Possession.*
Common Law by Indictment or Action,
as there is Occasion, and recover to the
Use of the Parish.

But if Things be given to the Church- *Equity for
wardens by Will, as Money, or other Goods gi-
moveable Things, of which they never ven,
had Possession, they have no way to re- whereof
cover them, but in the Spiritual Court, they had
or in Equity.* *no Possef-*

Neither can they prescribe to have *sion.*
Lands to them and their Successors. *Prescrip-*

If a Man make and set up a Pew in the *tion for
Church, or hang up a Bell in the Steeple, Lands.
they thereby become Church-Goods, (tho' A Pew
he do not expressly give them to the built in
Church) and he, nor his, nor any other theChurch,
may afterwards take them away; but the &c.
Church-wardens may sue him or them
that do it.* 10 H. 4. fo. 9. *Kitch. p. 277.*

Yet they have no such Property in the *They may
Goods of the Parish, as that they can give, not impair
sell, release, hurt or impair them; but if the Goods
they do, the Parishioners may elect new of the Pa-
ones before the Year be out, and the new rish.
ones*

ones may have an Account against the others. 2 Ed. 4. fo. 7.

Organs.

If the Organs be taken out of the Church, the Church-wardens may have an Action of Trespass for the same, tho' the Vicar took them; because they belong to the Parishioners, and not to the Parson: As was adjudged in the King's Bench, *Trin. 12 Jac. I.*

For Estate of Lands, &c. But as touching any Estate of Lands, or Profits of any Lands, the Church-wardens &c. the Vicar, &c. cannot intermeddle; and if any Person break the Walls, Windows, or Doors of the Church, eat up the Gras, or cut down the Trees in the Church-yard; the Parson or Vicar, and not the Church-wardens, must have the Action. 8 H. 6. fo. 9.

Prohibition granted. If the Church-wardens prosecute Causes in the Spiritual Court, which are merely Temporal, Writs of Prohibition will be granted against them. *Roll's Cases, 2d Part,* 286, 287, 289.

About the Seats in the Church.

To repair the Seats in the Church.

THE Church-wardens are to repair the Seats in the Church, and dispose of the same; but this is in Subordination to the Bishop of the Diocese, who ought of common Right to place or displace such as shall sit therein, unless Custom or Prescription interposeth, and there his Jurisdiction ceaseth.

But Church-wardens may not prescribe for a Right (tho' they have generally the Disposition of Seats) for the Ordinary's desisting from Acting. *Roll. Abr.*

Such

Such Seats in Chapels, as belong to Noble-men; and such other Seats, as any Person can prescribe to sit in by reason of his Estate, descended from his Ancestors, &c. he must prescribe, That he and his Ancestors, whose Estate he hath, had used to repair such Seat, &c. and to sit there. *Rolle's Cases, 2d Part, fo. 288.*

These Church-wardens also, by the Common Law, are to see to the Repairs of the Body of the Body of the Church and Steeple; but the Church, the Chancel is to be repaired by the Parson. And the Church-wardens are not bound to repair any Part of the Church or Isle, which any Man claims by Prescription, to him or his House.

Also they are to take Care, That the Church and Church-yard be kept clean and decent.

Also, to provide Books of Common-Prayer, Books of Homilies, a Parchment-Book for registering Christnings, Wed-dings and Burials.

*To provide
Ornaments
and other
Requisites.*

Also Fonts, Pulpits, Tables, Alm-Chefts, Communion-Cups, and other Ornaments and Furniture requisite; and a Chest with three Locks and Keys wherein to keep the same.

Also Bread and Wine for the Sacrament, according to the Number of the Communicants. 37 H. 6. 30. 12 H. 7. 10.

Now for defraying the Charges of these Church-Things, the Church-wardens (with the Assent of the major Part of the Parishioners) usually impose Rates upon the Parish. *Rates &c.*

But 'tis said, That if the Parishioners (upon publick Notice for that Purpose given them) do not assemble, the Church-wardens and Overseers of the Poor, or

the greater Part of them, may make the Rate.

See 5 Co. Rep. fo. 65.

How the Parishioners are chargeable But here Note, That Persons are chargeable towards the Reparations of the Church, in respect of their Lands.

And towards the Church Ornaments, and other Requisites for Worship and Service, in respect of their Dwelling, or Habitation, or Personal Estate.

See 2d Part Rolle's Cases, fo. 291.

These Things, hereafter mentioned, are accounted Church-Reparations, viz.

What are Church-Reparations. The Walls of the Church, and Church-Steeple.

The Church-yard Walls, of Stone or Brick, &c.

The Windows, Iron-Bars and Glass.

The Roof of Timber, with Laths, Nails, Priggs, Dogs, and Bolts of Iron.

The Covering of Lead, Tiles, Slates, or Shingles.

The Floor with Stone, or Paving-Tile.

The Doors with Locks and Keys, Stairs, Floors, Bells, Wheels and Ropes in the Steeple.

The Pulpit and the Pews (or Seats, not made by private Men by Custom).

All these are to be done by Land-Rate, though the Occupier of such Lands live in another Parish.

These Things, hereafter mentioned, are accounted Church-Ornaments, viz.

What are accounted thereof. The Communion-Table, and Coverings

The Communion-Cups, the Bread and *Church Or-
Wine.*

The Bible, and other Books appointed *namenti,
&c.*
to be kept in Churches.

The Surplice, Pulpit-Cloth and Cu-
shion, washing the Communion-Cloaths,
and Candles.

The Clerks and Sextons Wages, and
the Expences of Church-wardens and
Sidesmen, about the necessary Affairs of
the Parish.

And all these are to be rated upon the *Out-dwel-
Inhabitants of the Parish, and not on les.
Out-dwellers.*

*Church-wardens are to make Presentments ac-
cording to the Articles delivered them, and ments.
according to the Canons.*

They are to present, at Visitations, &c. *Things be-
whether there be a Box for Alms in the longing to
Church; the Bellis and Bell-ropes are in the Church.
Repair; there be a Bible, Common-
Prayer Book, and Book of Canons; a
Desk for the Reader, Cushion for the
Pulpit, and a Surplice; a Communien-
Table, Table-cloth, Cups and Covers for
Bread, Flaggons, and Font; a Carpet,
Register-book, and Chest with three
Locks; Grave-stones and Monuments well
kept; LORD's Prayer, Creed and Com-
mandments put up; the Church, Chancel
and Parsonage House in Repair; the
Church-yard well fenced, &c.*

Whether the Parson reads the thirty- *Things*
nine Articles twice a Year, and the Ca- *concerning*
nons once a Year; preach every Sunday, *the Parson.*
read the Common Prayer, celebrate the
Sacrament, preach Good Doctrine, read
the Homilies; preach in his Gown, wear

a Surplice, visit the Sick, bury the Dead, catechise Children, baptize with God-fathers, marry according to Law, live a sober Life, &c.

*Things
concerning
the Par-
ishioners.*

Whether any of the Parishioners are Adulterers, Fornicators, Drunkards, Swearers, Blasphemers, &c. They work on Sundays, not repair to Church; Alms-houses or Schools abused; Baptism neglected; Women not churched; Marriage in prohibited Degrees, and without Bans, Licence, &c. If Sacraments receiv'd three times a Year by all above sixteen; Seats, if Parishioners plac'd in them without Contention, &c.

*That the
Parishio-
ners resort*

They are to see, That all their Parishioners resort to Church, Sundays and Holydays.

to Church.

They are not to permit any to stand idle, walk or talk in the Church-yard, &c. Can. 19.

*To suffer
no Plays,-
&c. in the
Church.*

They are to suffer no Plays, Feasts, Drinkings, &c. or other profane Usage to be kept in the Church, Chapel, or Church-yard; nor the Bells to be rung without good Cause, to be allowed of by the Minister and themselves. Can. 88.

*Licence to
Preach.*

They are to suffer no Man to preach within their Churches or Chapels, but such as shall shew their Licence, and also to see that the Peace be duly kept in the Congregation; and that all Persons excommunicated be kept out of the Church, Can. 50 & 85.

*Excom-
municated
Persons.
Church-
wardens to
account.*

At the End of their Year, or within one Month after, they are to give a just Account of what they have received and disbursed, and to deliver up what Money, or other Things belonging to the Church, they have remaining in their Hands, to their

their Successors, by Bill indented : And if they refuse so to do, they may either be presented at the next Visitation-Court; or else the succeeding Church-wardens may have an Action of Account against them for the same at Common Law: But they shall be then allowed all Action of necessary Disbursements and Expences a- Account. bout the Affairs of the Parish. Can. 89. Allowance

4. fo. 6.

Fire-Cocks, &c.

Church-wardens of every Parish with- *Fire Cocks*
in the Weekly Bills of Mortality, *to be fix'd.*
are at the Charge of their respective Pa-
rishes, to fix upon the Pipes belonging to
the Water-works, Stop-blocks and Fire-
Cocks, &c.

And in each Parish is to be kept a large *Engines*
Engine, and a Hand-Engine, and a lea- *kept, &c.*
ther Pipe and Socket, under the Penalty in Parishes
*of 10*l.* to be levied by Distress on Church-*
wardens.

The first Person who brings in an *Engines* *Rewards,*
when a Fire happens, shall have 30*s.*
the second Engine 20*s.* and the third 10*s.*
payable by Church-wardens, &c.

In some Cases Church-wardens are jointly con-
cerned to act with other Officers, or equally
impower'd with them.

First, They are to join with Constables, *In what*
in apprehending such Persons as disturb *Acts*
Ministers; in levying Forfeitures for Church-
Swearing or Cursing; or for killing Hares, *wardens*
Pheasants, or Partridges. *must join*
with Con.

As likewise for Tippling and Drunkenness, profaning the Sabbath, destroying Fish unlawfully, levying 12 d. for not coming to Church every Sunday, &c.

Also in making Rates for maimed Soldiers or Mariners, and conveying Prisoners to Gaol; seizing Irish Cattle, receiving Rogues brought to them and passing them away.

In choosing Surveyors, and appointing Days for working in the Highways, &c.

Which Things are before set forth in the Office of the Constable.

*In what
Acts they
must join
with the
Overseers
of the Poor.*

Secondly, They are to join with the Overseers of the Poor in the Execution of their whole Office, and have an equal Authority and Charge with them therein. The Particulars whereof are set down in the next Chapter.

C H A P. XXV.

Of the Office and Duty of the Overseers of the Poor.

*Overseers
how ap-
pointed.*

THESE Officers are appointed, chosen, and made by two or more of the Justices of the County, (whereof one must be of the *Quorum*) dwelling in or near the Parish for which they are elected.

*Their
Number.*

The Justices are yearly under their Hands and Seals, at *Easter*, or within a Month after, to appoint two, three, or more substantial House-keepers to be Overseers

seers of the Poor; and if the Justices make Default in such Appointment, every Justice of that Division forfeits 5 l. Stat. 43 Eliz. cap. 2. Dalton Just. P. fo. 93.

These Officers ought to be substantial Persons, and are to be joined and assistant joined to the Church-wardens of the Parish, in the Church-the Oversight and ordering of the Poor of wardens. the Parish.

These Officers of Overseers and Church-wardens, are once a Month to meet in the Church the Church, on Sundays (after Evening once a Prayer) to consider and advise together Month. of Matters belonging to their Office, and to use their utmost Diligence in the executing thereof, on the Penalty of 20 s. Penalty. for every Default; but such as have just Cause of Absence allowed of by two Justices, may be excused. Stat. 43 Eliz. cap. 2.

And by this it appears, That the Church-Church-wardens have an equal Power and Charge wardens with the Overseers, and may be punished Authority for their Neglect or Refusal to meddle. equal with Dalton Just. P. fo. 93. theirs.

These Officers are chiefly to take Care Their Care of the Poor, either that they work, or be relieved if not able; and also to settle Poor. them in their Habitacions.

Note, There are reckon'd three Sorts of ThreeSorts poor People. of Poor.

1. Such as are poor by Impotency; as Impotent aged and decrepit, blind, lame, distracted, and decrepit. lunatick, tender Infants, &c.

2. Such as become poor by Casualty; Poor by as maimed or disabled in their Bodies, or Misfortune Callings, undone by Fire, and the like, overcharged with Children.

*Poor by
Idleness,
&c.*

3. Such as have made themselves poor, by Riot, Idleness, Drunkenness, &c. and such as are dissolute Persons, pilfering Vagabonds, &c.

Full Relief As to the First, Poor by Impotency, &c. the Overseers are to provide for them, that they have necessary Relief and Allowances proportionable to their Needs.

Some Work, some ality, &c. if these be of Ability and Strength, they are to be set on Work by the Overseers, and to be further relieved according to their several Necessities.

Full Work. As to the Third Sort, they are also to be set on Work at the House of Correction, and to maintain themselves by their hard Labour, so as they may not be chargeable to the Town or Country.

But by 3 & 4 W. & M. No Poor Persons are to be reliev'd, whose Names are not registred in the Parish-Book ; unless by Authority, under the Hands and Seal of a Justice, or in Cases of pestilential Diseases, &c. And the Persons reliev'd must have on the upper Garment, upon the Shoulder of the right Sleeve, a Badge with the Letter P. and the first Letter of the Name of the Parish.

Officers relieving such, who do not wear the Badge, forfeit 20 s.

*Rick Per.
sons to re-
lieve their
poor Rela-
tions.* Again, as to poor impotent Persons, not able to work, you must observe, That the Father, Grand-father, Mother, Grand-mother, and the Children, Grand-children (not being Bastards) of such poor Persons, being able, shall relieve such poor Relations in such Manner as shall be assesse'd at Forfeitures Quarter-Sessions, upon Forfeiture of 20 s. per Month during Refusal, to be levied by

by these Officers on a Warrant from two Justices (*Quorum unus*) by Sale and Dis-Imprison-
stress; and Imprisonment for Want of Dis-
stress. *Stat. 43 Eliz. cap. 2.*

Also if a poor Man want a House, the Overseers Overseers (by Consent of the Lord of the manor) may erect a Cottage on the Waste, *Cottage.* and lodge Inmates therein, notwithstanding

Stat. 31 Eliz. cap. 7.

As to the second Sort, observe, These *To set Persons* are to set to work all such Persons on sons (married or unmarried) as have no *Work.* Means to maintain themselves, or use no ordinary and daily Trade, to get their Living by; and to set to work and bind forth Apprentices, the Children of such *To bind* whose Parents they shall not think able to *Appren-* keep and maintain them. *Stat. 43 Eliz. cap. 2. Dalton fo. 93, 94, 95. 7 Fac. 3.*

As to the Third Sort, If any of them *Idle Persons* appointed to work, shall refuse so to do, sons sent to or to work for the Wages assessed, any the House Justice of Peace may send them to Gaol, of Correction or the House of Correction.

And that such Overseers, &c. may be enabled to set such People at Work; they may with Consent of two or more Justices (one to be of the *Quorum*) set up, Overseers use and follow any Trade, Mystery, or *may use* Occupation, only for the setting on work *any Trade.* and relieving the Poor of the Parish or Place. *Dalton fo. 94. Stat. 3 Car. I. cap. 4.*

Church-wardens and Overseers of the *New Act.* Poor, with Consent of a Majority of the Parishioners, may purchase or hire Houses, and agree with Persons for the Lodging and Keeping of Poor; and to take the Benefit of their Work for their better Maintenance and Relief; and poor Persons refusing to be so lodg'd and kept,

are to be struck out of the Parish-Books,
Stat. 9 Geo.

To licence their Poor to beg. These Officers may license their Poor to beg within their own Parish; but not in the Highway.

Penalty. And note, That no Inhabitants ought to serve any Poor at their Door, but those of their own Parish, and that have such Licence, upon Pain of 10 s. for every time they do so. *Dalton, fo. 99, 126, 39 Eliz. 3. Stat. 1 Jac. cap. 7.*

Concerning Rates, and settling of the Poor.

To make Rates, and law. **F**OR enabling these Officers to relieve the helpless Poor, It is enacted, That they (or the greater Part of them) may weekly, or otherwise, raise by Taxation upon the Occupiers of Lands, Houses, Tithes, Coal-Mines, saleable Underwoods, &c. in their Parish, such Rates as they shall think necessary: Which Rate or Tax must be allowed by two Justices (one to be of the *Quorum*) by virtue of whose Warrant these Officers may levy the Rates by Distress, on the Goods of such as refuse to pay: And for Want of Distress, the Party may be committed to Prison, till Payment. *Stat. Imprison-ment. 43 Eliz. cap. 2. Dalton, fo. 97.*

Who are chargeable with these Rates. Note, These Rates ought to be made, according to Mens visible Estates, either Real or Personal, within the Place only, and not for any Estate they may have elsewhere: And the Tenants and Occupiers are only chargeable, and not the Landlords; except they hold the Land in their own Hands. *1 Bulstr. fo. 354.*

All

All Lands are chargeable with these *Lands*, Rates by the Pound, or according to the *how* Value, and an Hundred Pounds in Stock *chargeable*, or Goods, at five or six Pounds a Year, and so proportionably.

The Quarter-Sessions will relieve such *Relief*. as are grieved by the Rates or Taxes.

And if a Parish is not able to maintain its own Poor, two Justices may tax any other Parish within the Hundred; and the Sessions have Power to tax the whole County.

As to keeping out of, and settling poor People in the Parish, observe these Things.

THAT forty Days Residence quietly *Forty Days* in a Parish, is accounted a legal Settlement Settlement, by Stat. 14 Car. 2. cap. 12. *how to be* But Stat. 1 *Fac. 2.* which revives the other *accounted*. Statute for Seven Years, and to the End of the next Session, directs, That the Forty Days shall be accounted from the Time of Notice of their Abode, which the Parties are bound to give in Writing to the Church-wardens, or Overseers.

2. By the Statute 14 Car. 2. cap. 12. If *Coming to* a Stranger come into a Parish to dwell *dwell in a* in any Tenement, under Ten Pounds a *Tenement* Year, and refuse to give Security to dis- *under 10 l.* charge the Parish; any two Justices (one per Ann. to be of the *Quorum*) on Complaint of the Church-wardens or Overseers within Forty Days, may send him to the Place where he was last legally settled. And such as find themselves grieved, may appeal to the Sessions.

*Who Pa-
rishioners
in a Pa-
rish, and
gain Set-
tlements.*

Persons executing upon their own Account any Publick yearly Office, or Charge for a Year ; paying to the Poor's Rate, or any Share of Taxes of the Parish (unless it be the King's Tax) unmarried Persons not having Children, hired for a Year ; and Persons bound Apprentices, and inhabiting in a Town ; gain a Settlement in a Parish, without giving Notice. *Stat. 3 & 4 W. & M. cap. 11.* But Persons taxed on the Scavenger's Rates, or to the Highways, do not thereby gain any Legal Settlement in a Parish, by *Stat. 9 Geo.*

*Going a-
broad by
Certificate,
to Work
above Forty
Days.*

Any Person may go abroad to work in Harvest, or other Employment, with a Certificate from the Minister, one Church-warden and one Overseer, that he is a settled Inhabitant in their Parish. And if in such Case he fall Impotent, after he hath been in a strange Place, he may be returned to the first Parish ; for his Stay in the other shall be counted no Settlement.

Persons refusing to go, or not remaining in the Parish where they ought to be settled, may be sent by the Justices to the House of Correction. *14 Car. 2. cap. 12.*

*Certificates
on Removal
of Poor.*

By the *Stat. 8 & 9 Will. 3. cap. 30.* a Poor Man may remove from one Parish to another, having a Certificate under the Hands and Seals of the Church-wardens and Overseers of the Poor, acknowledging the Person therein mentioned to be an Inhabitant legally settled in their Parish ; which Certificate being attested by two Witnesses, and allow'd by two Justices, shall oblige the Parish to receive the Person, &c whenever he shall become chargeable.

The

The certificate Person must rent 10 l. *No Settlement per Ann.* or execute some annual Office, *ment* before he can gain a Settlement: Nor *gain'd by* shall his Apprentice or hired Servant ac- it. *quire any Settlement, until he have a legal Settlement in the Parish. Stat. 9 & 10 W. 3. c. 11. And 12 Ann. cap. 18.*

Some Cases about Settlements, &c.

A. Having a Wife and Children, takes *A Family* a House in the Parish of *B.* for a *illegally* Year, and in that Year is wrongfully *turn'd out* turn'd out of Possession, and thereupon of the *Parish*. takes a House in another Parish; out of *which he is also put within two or three Days, and thereby wanting a Place to shelter him, gets into a Barn in another Place, and there his Wife is delivered of another Child: In this Case it's said, they are all to be sent to the Parish, out of which they were first illegally forced. Resol. of the Judges, Sect. 24.*

One born as *A.* left that Place ten Years *An Inhabitant* and lived in *B.* taking a House, and pay- bitant being Rent there for two or three Years; *coming Vagrant* and afterwards left that Place also for six *grant, how* or seven Years, and then came to *C.* in *to be settled* another County, and there was twenty *tied.* Weeks at Work; but becoming Impotent, did wander and beg, and being taken as a Vagrant, It was ordered, That he should *Vagrant* be pass'd and settled at *A.* where he was Beggar Born. 1 Bulst. fo. 357. *sent to the*

And here Note, That no Man but a *Place of vagrant Beggar* ought to be sent out of *bis Birth*. any Parish, to the Place of his Birth or last Habitation; for if any refuse to work *Others to* in the Parish where he is settled, or to the *House* work for the Wages ass'd, the *Justices of Correction*.

are to send him to the House of Correction.

Dalt. fo. 126. 39 Eliz. cap. 9. 1 Jac. cap. 7.

Disturbing a lawful Settlement And Note also, That if any Disturbance be made to any Settlement, lawfully ordered by the Justices, either by the Constables refusing to receive and convey a Rogue, where they ought to do it : Or by the Church-wardens or Overseers of the Poor, in refusing such a one as is duly sent to be settled there ; in such Case they forfeit 5*l.* by *Stat. 29 Eliz. cap. 4.*

Lives in one Town, works in another. *A.* lives in a House at *B.* with his Children ; but works in *C.* being hired there by the Year : In this Case it's said, his Children are settled in *B.* and not in *C.* in Case of *A*'s Death.

Child got in one Place, born in another. If a Woman unmarried be hired in one Parish, and there got with Child ; and then goes into another Parish, and is there settled in Service, or otherwise, for two or three Months, and then is found with Child, and deliver'd : In this Case it's said, she and her Child shall be settled in this Parish where she is, and not to be sent to the Parish where the Child was begotten. *Resol. Judic. Sett. 12.*

Trades. Officers or Soldiers who served *W. 3.* and who were disbanded at the End of the War, may exercise Trades, tho' they did not serve an Apprenticeship, and they may set up any Trade in any Town or Place in the County where born. And if indicted, then he must produce a Certificate under the Hand and Seal of some Field-Officer of the Regiment where he served, upon the Oath of one Witness to be true ; but producing a false Certificate, shall be committed three Months, and lose the Benefit of the Act. *10 & 11 Will. 3. cap. 1 L.*

If a Soldier come from beyond Sea to Work.
the Place of his Birth, and cannot get
Work, two Justices shall take Order to
set him to Work, or for Want thereof
shall tax the Hundred for his Relief.

6 & 7 Will.

Concerning Bastard-Children.

Observe further, That the two next Justices may take Order, as well for the Punishment of the Mother of a Bastard-Child ; as also to compel her and the reputed Father, to save the Parish harmless by allowing Money weekly, and may imprison him or her, if that Order be not performed. The Justice also (to discover the Truth of the Matter) may examine the Mother upon her Oath, concerning the Father of the Child. *Dalton,* fo. 37 & 38. 18 *Eliz. cap. 3. 7 Fac. 1. cap. 4.*

If a Woman be delivered of a Bastard-Child in one Parish, and then goes into another Parish with her Child ; in this Case the Child, after it is nurfed, is to be sent and settled in the Place where it was born, and not to remain with the Mother. *Bastard born in one Parish, and carried into another.*
Resol. Judic. Sect. 21.

If A. have a Bastard-Child by B. born in D. and the reputed Father marries another Woman, and they breed the Child ten Years in the Parish of S. (the Mother of the Child being a single Woman, and in Service all this While) and then the reputed Father dies : In this Case it's said, to be sent the Child is to be sent to the Mother first, *takēd after to be maintained by her, if she be able; the Father's* and if not, it must be kept by the Parish *ther's* of S. where it was settled ten Years with Death. *2 Bulstr. 350.*

Cor-

Concerning the putting forth and binding Apprentices.

What poor Children may be put out Apprentices.

FOR the Doing of this, It must be observed,

First, That they are to be such Peoples Children, whose Parents are unable to maintain them; and to be done with the Consent of two Justices. *Stat. 7 Jac. cap. 3.*

Of what Age they ought to be and how long to be bound.

Secondly, That the Children so put forth, ought to be above seven, and under fifteen Years of Age, when they are first bound; and they may bind the Man-child till twenty-four Years of Age, and the Woman-child till twenty-one Years of Age, or that she shall be married, which shall first happen. *40 E. 2. Dalton, fo. 83.*

What Persons may be compell'd to take such Apprentices

Thirdly, These Officers may (with the Help of the Justices) compel any Man whom they think fit within the Parish, to take a poor Man's Child, with Money or without, as they see Occasion. *Resol. Jud. Q. 1.*

And if the Masters and Officers cannot agree, the Justices thereabouts, or in their Defaults, the Sessions must end the Matter. *Dalt. fo. 95. Res. Jud. Quest. 2.*

Trades-men, Husbandmen, bandmen, House-wives, Gentlemen, &c.

Fourthly, They may put them to Weavers, Masons, Dyers, Fullers, or any other Trade, as well as to Husbandry or House-wifry: And all Men that have, or may have Use for Servants, whether Knights, Clergymen, Gentlemen, Yeomen, or Tradesmen, are bound to take

Ap-

Apprentices: And if they be rich, tho they table themselves, and alledge that they have no Occasion for Servants; yet they may be forced either to take them, or give Money towards the placing of them with others; and if they refuse to pay the Sum imposed upon them, two Justices of Peace may make Warrants to levy the same by Distress and Sale of *Distress*.
 the Offenders Goods. Or they may present and indict such as refuse to take such *Indictment* Apprentices, at the Assizes or Sessions of the Peace. *Stat. 43 Eliz. cap. 2. Dalton, fo. The Parent of the 83. 95. Ref. Jud. Quest. 4.*

So may the Parents of the Children be *Children* indicted, if they (not being able to bring *indicted*. them up honestly) refuse to part with them; or if they shall entice their Children away after they are bound. *Dalton Jus. P. fo. 78 & 96.*

If the Children shall refuse to go to *The Children be Apprentices*, when ordered, the Ju-*dren sent* stices may send them to the House of Cor-*to the* rection, till they shall be content to be *House of bound*. *Dalt. ut supra. Correction.*

Note, These Apprentices must be bound *To be* by Indenture; the Indenture to be made *bound by* between the Justices, Church-wardens *Indenture,* and Overseers of the Poor, and the Ap-*and how.* prentice of the one Part; and the Party that takes the Apprentice, on the other Part. Or it may be said to be with the Consent of the Justices.

The Form whereof is as followeth;

THIS Indenture made the first Day of The September, in the Tenth Year of Form of the Reign of our Sovereign Lord George, by the In- the Grace of GOD, of Great-Britain, denture. France,

France, and Ireland, King, Defender of the Faith, &c. Annoq; Domini, 1723. Witnes-
seth, That A. B. and C. D. Overseers of the Poor of the Parish of St. Giles's in the Fields, in the County of Middlesex, and E. F. and G. H. Church-wardens of the same Parish, by and with the Consent of J. K. and L. M. Esquires, two of his Majesties Justices of Peace for the same County, have

* Or you may say, Son or Daughter (of such an one) unable, by Reason of his Age and great Charge, to bring up and maintain his (or her) said Son, or Daughter, as the Case is.

† If it be a Girl, you may bind her to 21, or Day of Marriage; and a Boy may be bound to 24.

Business, according to his Power, Wit, and Ability; and honestly and obediently in all Things shall behave himself toward the said P. Q. his Wife, Children and Family. And the said P. Q. for his Part promiseth, covenanteth, and agreeth, That he the said P. Q. the said N. O. in the Art, Skill and Mystery of a Taylor, † shall Teach, and Instruct, or cause to be Taught and Instructed, the best Way and Manner that he can, according to his Knowledge; and

‡ Or in the Art and Skill of Husbandry, or House-wifry, as the Case is. also to find and allow unto his said Apprentice sufficient Meat, Drink, Washing, Lodging, Linen,

Linen, Woollen, Shoes, Stockings, and all other Things meet and necessary for such an Apprentice, during all the said Term. In Witness whereof, the said Parties to these Presents have to the same interchangeably set their Hands and Seals, the Day and Year first above written.

Let the Church-wardens, Overseers and Apprentice, seal and deliver one Part to the Master: And let the Master seal the other Part to them.

And it may be the better to get the Justices to signify their Consent, by Indorsement on the Backside of the Indentures.

Mayors, Bailiffs, or other Head-Officers of Corporate-Towns, have in their several Precincts like Authority, as the Justices of Peace have in the Counties, for all the Uses and Purposes in this Act: And the like hath every Alderman of every Ward in the City of London. Stat. 43 Eliz. cap. 2.

Note, This placing of Apprentices may be to any Man, or single Woman, or Widow, whom the Officers and Justices think fit to receive them, either to learn a Trade, or Husbandry, or House-wifry.

And all such as are bound by the Overseers, &c., as aforesaid, may safely be received and kept as Apprentices, by their Masters and Mistresses, to whom they were so bound. 1 Jac. 1. cap. 25. 21 Jac. 1. cap. 28. 3 Car. 1. cap. 4.

By the Stat. 7 Jac. 1. cap. 3. Money How given to put out poor Children Apprentices, is to be employed by the Corporation, or Parson, Constables, Church-war-poor Children, and Overseers; accordingly, on Pain dren, shall that every of them forfeit Five Marks. be employed.

Apprentice dies. And the Person that takes Money with such Apprentice, shall give Bond to repay it at Seven Years End, or within three Months after: Or if the Apprentice die in the mean Time, then within one Year after his Death; and the like of the Death of the Master, Mistress, or Dame, so as the Money may be employed for putting out others.

Master dies.

Refusing poor Apprentices.

Apprentices to Sea-Service, &c.

Apprentices turn'd over.

Master may not take away his Apparel.

How an Apprentice may be discharged from his Master.

By the Stat. 8 & 9 W. 3. c. 30. Where a Master shall refuse a poor Apprentice, upon the Church-wardens making Oath of such Refusal before two Justices, the Master shall forfeit 10 l. to be levied by Warrant of the two Justices, &c.

The 2 Ann. cap. 6. gives Power to Justices, and Church-wardens, and Overseers of the Poor with their Assent, to place out poor Boys, likely to be a Charge to the Parish, being ten Years of Age and upwards, 'till they come to the Age of 21 Years, to the *Sea-Service*; and 2 l. 10 s. is to be given with each Boy by the Church-wardens and Overseers, to provide Cloathing and Bedding, which will be allow'd in their Accounts.

And Parish-Boys bound Apprentice according to 43 Eliz. May, with the Consent of two Justices, &c. be turned over to Masters and Owners of Ships.

If a Master, &c. shall put his Apprentice into Apparel, he cannot take it away take away from him, tho' he shou'd afterwards part his Apparel with his Apprentice. Bro. Tresp. 93.

And Note, That an Apprentice cannot be discharged from his Apprenticeship, but by four Justices at the least in open Sessions; by Agreement in Writing under his Master's Hand. Dalt. Just. P. fo. 79.

You may percieve, by what has been Overseers said before, that these Officers are to be to be assisting in some Cases to Constables, as fissing to for Irish Cattle, &c. which is left to your other Officers. Observation in reading this Treatise.

The Overseers are to receive for the Fines and Poors Use, the Fines laid upon such as Forfeitures with Nets, Snares, or Engins, take and to be rekill Fish, Conies, &c. unlawfully, with ceived by out the Owners Consent. Stat. 22 & 23 them. Car. 2. cap. 25. And several other Penalties by Statute.

Also a Third Part of such as travel with above five Horses in Length. See the next Chapter, for Highways.

By the Stat. 30 Car. 2. cap. 3. upon the Forfeiture Minister's Notice to the Church-wardens for not burying in or Overseers of the Poor, under his Hand, ryng in That no Affidavit is brought to him according to the Statute for burying in Woollen. They are within eight Days after to repair to the Chief Magistrate of any Town where the Deceased was buried, else to a Justice of Peace; who upon the Minister's Certificate are to grant a Warrant to levy the Forfeiture, viz. 5 l. by Distress and Sale of the Goods of the Party deceased; or in Default thereof, of the Person's Goods in whose House the Party died; or the Goods of any that had a Hand in putting the Party deceased into any Shroud or Coffin, made or lined, &c. with any Thing but Sheeps-Woll, contrary to this Act, or that ordered the same; And if such Person were a Servant, and died in the Master's Family, the Master's Goods to be liable. And if such Person died in the Family of his Parents, then the Parents Goods to be liable: One Part of

of this Forfeiture to the Poor of the Parish, the other to him that will sue for the same.

If a Justice be not in the Parish where the Party shall be interr'd, the Affidavit may be administred by any Parson, Vicar or Curate in the same County, other than of the Parish or Chapel of Ease where the Party is interr'd, and they are to attest the same under their Hands *gratis*:

Stat. 32 Car. 2. cap. 1.

Forfeitures of Officers. Officers neglecting their Duty by this of Officers. A&t, forfeit 5*l.* for every Offence, to be recovered by Action brought within Six Months after the Offence: One fourth Part to the King, two to the Poor of the Parish, and one fourth to the Informer.

30 Car. 2. cap. 3.

Overseers to account. These Officers within four Days after their Year ended, and others chosen, are to make a true Account to two Justices, of what Money they have received and disbursed, what Wares they have in their Hands, or in the Hands of any of the Poor, what Prentices they have put out, &c. *43 Eliz. 2 Dalton, fo. 96.*

And they are also to give an Account at their Sessions, or to any two Justices at their monthly Meetings, of the Name and Quality of every Person interr'd since

Account of Certifi- cates and Burials, &c. their former Account; and of the Certificates, and their levying Penalties, and of the Disposal thereof, on Pain of 5*l.* to be levied by Distress and Sale; and their Accounts shall not be allowed till they have accounted for their Burials.

30 Car. 2. cap. 3.

To pay over the Re- mainder. Commit- ment. Upon their last accounting what is remaining, they shall pay over to the new Overseers; if they refuse to account, the Justices may send them to Gaol; and if after

after they have accounted, they refuse or fail to pay over the Money in their Hands to their Successors, the same may be levied on their Goods by Distress; or *Distress.* they may be sent to the Gaol, there to remain till Payment and Delivery of the Arrears and Stock remaining, as aforesaid. *Stat. 43 Eliz. cap. 2. Dalton, fo. 96.*

Note, That the Church-wardens and *Forfeitures* Overseers, for every Default and Negli-*of the* gence in their Office about the Poor, every *Church-* of them forfeits 20*s.* The Default to be *wardens* proved either by Confession or Examina-*and Over-* tion of Witnesses, and is to be levied by *seers,* for the new Church-wardens and Overseers, *Neglect in* or one of them, on Warrant by *Distress their Office.* and Sale; and for Want of Distress, the Offender may be committed by two Justices to Gaol till Payment: The Forfeitures to be employed to the Use of the Poor of the same Parish. *43 Eliz. cap. 2. Dalton, fo. 97.*

C H A P. XXVI.

The Office of a Surveyor of the Highways.

*How and
for what
appointed.*

THESE Officers are yearly appointed, to look after the necessary Reparations of the Highways, within the Parish or Precinct, for which they are chosen.

Vide antea

Something hath been spoken concerning these Officers in particular, for *London, Westminster*, and the Parishes within the Weekly Bills of Mortality. See before, the Chapter about the *Streets, Scavengers, &c.*

*When to
be chosen.*

But observe further in general, That these Officers are to be chosen on Monday or Tuesday in *Easter-week*, by the Church-wardens, Constables, or Tithingmen, for the Time being, with the Advice and Consent of the major Part of the Inhabitants ; and they may be Two or more in Number, as the Largeness of the Parish requires ; and being chosen, and having Notice thereof given them by the Constables, &c. the next Sunday after, they are immediately after such Notice, to take the Office upon them, in Pain of forfeiting 20 s. *Stat. 2 & 3 P. & M. cap. 8. 14 Car. 2. cap. 6.*

Note, by the Statute 22 Car. 2. cap. 12. they are to be chosen some Day in *Christ-mass-week*, and six Days Notice.

The Constables and Church-wardens Days set upon choosing the Surveyors, are to ap- a-part for point six Days between that and *Midsum- Mending-mer*, to be set a-part for the Mending the the High-Highways, and must give publick Notice ways. thereof before the several Days. *Stat.*

5 Eliz. 13. 22 Car. 2. cap. 12.

By this last Statute, if they cannot be mended by *Midsummer*, they must be mended before the Feast of St. *Luke*.

These Officers are to take Care that *How the* the Parishioners do their Work on the *Parishio-* Days appointed, according to these Rules, *ners are to* *viz.* *work on*

Every one having a Plough-land (that *those Days.* is, so much as one Plough may plough in *A Plough-* a Day) in Tillage or Pasture in the Pa- land, one rish, or keeping there a Plough or Team, Cart and shall on every of the said Days, bring or *two Men.* send one Wain or Cart fit for Carriage, provided with necessary Tools, with Oxen or Horses, &c. according to the Usage of the Country, and two able Men, who are to work as the Surveyors shall appoint, Eight Hours a Day. *2 & 3 P. & M. Eight* *Hours.* *cap. 8.*

Every other Houholder, Cottager, and Labourer in the Parish, being able to *Cottager* and La- work, and not a Servant hired by the *bourer.* Year, must by himself, or some other able Man, work Eight Hours at the Ap- *Eight* pointment of the Surveyors on every of *Hours.* the six Days, as aforesaid. *2 & 3 P. & M.* *cap. 8.*

Such as have no Carts, yet being in *Subsidy-* Subsidy 5 l. in Goods, or 40 s. in Land, or men, two above, must find two able Men to work *able Men.* every of the said six Days. *18 Eliz. cap. 10.*

Materials carried on Horse-back Where the Usage is to carry Materials for such Amendment on Backs of Horses or by other Carriages, the Inhabitants shall send them in with able Persons to work with them in like Manner, and under the like Penalties, as is appointed for Carts and Teams. 22 Car. 2. cap. 12.

If any fail to make their Days Labour, or neglect to send their Carriages, &c. the Surveyors shall complain to the next Justices of Peace, who upon Oath thereof by one Witness may levy by Distress and Sale of Goods, for every Day-Labourer neglecting (without a reasonable Cause) 1 s. 6 d. for every Man and Horse 3 s. and for every Cart with two Men, 10 s. Which Penalties shall be employed for repairing the Highways in every respective Place and Parish. 22 Car. 1. cap. 12.

Penalties on a Day-Labourer.

A Man and Horse.

A Cart and two Men.

Penalties levied by Surveyors or Constables.

Note, by the Statute 2 & 3 P. & M. the Forfeiture was but 12 d. a Man, and 10 s. for a Team and two Men; and the Penalties to be levied by the Surveyors by Distress and Sale, and for their Neglect within one Year to do it, then by the Constables and Church-wardens.

Surveyors may command Men instead of Cart.

If the Surveyors shall think any of the Ploughs or Carts needless, any of the Days they may spare them, and instead thereof require two able Men, who must come, upon the aforesaid Forfeitures. 2 & 3 P. & M. 8.

If six Days will not serve to amend the Highways, the Surveyors must appoint more: For if the Highways be not sufficiently amended, the whole Town or Parish may be indicted for it, and the Parishioners are bound to come or send, as aforesaid. Dalton Just. P. fo. 69.

Where the Highways cannot be amend'd before *Midsummer*, they shall be repair'd before the *Feast of St. Luke.* 22 Car. 2.

cap. 12.

It is said, The Owner of Lands, if he *Tenant to be not the Occupier thereof*, ought not be charged to be charged towards the Repair of the Common Highways; but the Tenant who occupies the Lands is to be charged. *Roll's Case, 1st Part, fo. 390.*

Surveyors may take and carry away so *What much Rubbish and small broken Stones Things the already digg'd, out of any Man's Quarry Surveyors within the Parish, without the Owners may take Leave, as they shall think fit; or they may from other gather loose Stones in any Man's Ground; Mens but may not dig for new Stones without Grounds Leave, nor take great Stones which are without already digg'd. But they may dig for Leave. Materials in likely or probable Places, lying near the Place where the Way is decay'd, for Sand, Stones, Gravel, &c. so Exceptions as it be not in Houses, Gardens, Orchards, or Meadows, (for in those they may not dig without the Owner's Leave); nor may they make a Pit above ten Yards in Breadth or Length; and they must fill it up again at the Charge of the Parish, within a Month, upon Pain to forfeit five Marks Penalties to the Owner of the Ground, to be recovered by Action of Debt.* *Stat. 5 Eliz.*

cap. 13. They may also by this Statute *Water-turn a Water-course, hurtful to the High-Course. way into any Man's Ditch.*

Owners of Grounds adjoining to the *Forfeitures Highways, not keeping their Hedges low, on such as and cutting down Trees and Bushes growing over the same, forfeit 10 s. Also their Hedges that scour not their Ditches next the adjoining to the Ground that is next the*

Highway, to the End the Water may have the better Passage out of the Highway, shall forfeit 12 d. for every Rod.

Stat. 18 Eliz. cap. 10.

Scourings If any Person scours his Ditch, and throws the Scourings into the Highway, and suffers it to lie there six Months, for Highway. forfeits 12 d. for every Load. *18 Eliz. 10.*

Forfeitures These Forfeitures upon *Stat. Eliz. 10.* how to be to be levied by the Surveyors by Distress levied. and Sale; in their Default not to do it within a Year; then the Constables and Church-wardens by Warrant may do it.

Forfeiture for not presenting. If the Surveyors neglect to present the Offences against *Stat. 2 & 3 P. & M. c. 8.* & 5 *Eliz. c. 13.* within one Month after they shall be committed, and forfeit 40 s.

Return of Defaulters By the *Stat. 22 Car. 2. cap. 12.* they are to return the Defaulters within a Month after every Default, to some Justice of Peace, who shall present the same at the next Quarter-Sessions.

Forfeitures By the same *Stat. 22 Car. 2. cap. 12.* no of such as Carriage with any Burthen (other than travel such as are employed about Husbandry, with above and in carrying Hay, Straw, Corn un-five Horses thrash'd, Coal, Chalk, Timber for Ship-in Length. ping, Materials for Building, Stones or Ammunition, or Artillery for the King's Service) shall go in any Highway with above five Horses in Length: And if any draw with more Horses or Oxen, they shall all draw in Pairs except one Horse:

One Third Owners of Carriages or Beasts, offending, to the Surveyors. shall forfeit 40 s. for every Offence; one Third to the Surveyors of the Highways in the Town, &c. where committed, for the Repair of them; another Third to the Overseers of the Poor of the Parish, where, &c.

Every

Every Constable or Surveyor of the Fine upon Highways, neglecting to put the Acts Surveyors, touching repairing, &c. Highways in Execution, or wilfully suffering any Wag-ⁿ gons or Carts to pass in any other Man-^{their Office,} ner, than by this Act is allowed, shall upon Complaint to a Justice of Peace, by the Oath of one Witness, or View of the Justice himself, be convicted and incur such Fine as the Justice shall impose, not exceeding 40 s. to be levied by the High Constable, or other Officer, by Warrant under Hand and Seal of such Justice, to be employed for the Mending the Highways of the Parish or Place where such Neglect shall be. 22 Car. 2. cap. 12.

Lastly observe, That two Justices of Surveyors of Peace by the Stat. 18 Eliz. may take the Accounts, Accounts of the Surveyors of the Ways, &c. and the Petty Constables and Churchwardens, for such Forfeitures (within that Statute) as they have levied. Stat. 18 Eliz. cap. 10. Dalton Just. P. fo. 71.

Other STATUTES.

BY Stat. 3 & 4 W. & M. cap. 12. It is Stat. 3 & enacted, That the Laws and Statutes 4 W. & M. in Force, touching the Highways, not thereby altered or repealed, shall be put in Execution.

2. That upon the 26th Day of December yearly, unless that Day be Sunday, chosen, and then on the 27th Day, the Constables, Headboroughs, Tithingmen, Churchwardens, Surveyors of the Highways, and Inhabitants of every Parish, shall assemble, and the major Part of the Assembly shall make a List of the Names of a competent

petent Number of the Inhabitants, who have an Estate in Land in their own Right, or their Wives of 10*l.* per Annum, or a personal Estate of 100*l.* or are Occupiers of Houses, Lands, &c. of the yearly Value of 30*l.* if such there be, and if not, then a List of the most sufficient Inhabitants, and return it to two or more Justices of the Peace at a Special Sessions to be held for that Purpose, on the 3d Day of January next following, or within fifteen Days after; for which Purposes the Justices are required to hold a Special Sessions, and to give Notice to the Constables, Headboroughs, &c. of every Parish within the Division, ten Days before the Holding of the same; and out of the said Lists, by Warrant under their Hands and Seals, they shall nominate one, two, or more to be Surveyor or Surveyors of the Highways of every Parish within the Division, or for any Hamlet, Precinct, Town, &c. of and in the same, for the Year ensuing: Which Nomination shall by the Constables, &c. be notified to the Persons nominated within six Days, by serving them with the Warrants, or leaving the same, or a Copy thereof, at their Houses, and if Persons so nominated shall refuse or neglect to take upon them the said Office, they shall forfeit 5*l.* to be levied on their Goods by Distress and Sale thereof, by Warrant of two Justices of the Peace, which Warrant the Justices are requir'd to make upon the Information of one credible Witness upon Oath, the Moiety of such Forfeiture to the Informer, the other to go towards the Repairing of the Highways, and in such Case the Justices shall nominate some other fit Persons

Persons to perform the Office, who shall upon like Notice, take upon them the Office under the same Penalty : And Constables, Headboroughs, &c. or some of them, who shall not return such Lists of Names, every one of them so neglecting, shall forfeit 20 s. to be levied in the Manner, and employed to the Uses, as aforesaid.

3. No Persons shall lay in any Highway, not twenty Foot broad, any Matter whereby the same may be obstructed or annoyed, on Pain to forfeit 5 s. to be levied and dispos'd as aforesaid.

4. If any Timber, Stone, Straw, Hay, *Annoyance Stubble*, or other Matter for making *to Ways*. Dung, or any other Pretence, shall be laid in any such Highway, the Possessors of the Land next adjoining, shall remove and dispose of the same to their own Use, and if they neglect to clear the Way, or to cleanse their Ditches, &c. adjoining thereunto, or to cause the Earth taken thereout, to be carried away ; and to lay sufficient Trunks or Bridges, where there are Cartways into the said Ground, by the Space of ten Days after Notice given by any of the Surveyors, they shall forfeit 5 s. for every such Offence, to be levied and dispos'd, as aforesaid.

5. No Tree, Bush or Shrub shall be permitted to grow in any Highway, not twenty Foot broad, but shall be cut down by the Owner of the Land where it stands, within ten Days after Notice given by any of the Surveyors, on Pain to forfeit 5 s. to be levied and disposed, as aforesaid.

6. The Possessors of Lands adjoining to the Highway, not twenty Foot broad,

shall keep the Hedges prun'd right up from the Roots.

Duty of Surveyors.

7. Surveyors appointed as aforesaid, shall within fourteen Days after their Acceptance of this Office, and so from Time to Time, every four Months, view the Roads, Water-courses, Bridges, Canseys, &c. within the Parish, &c. where he is a Surveyor, that are to be repaired by the Parish, &c. and present upon Oath in what Condition they find them, to some Justice of the Peace, or to incur the same Penalty, as if they had refused to execute the Office, unless they have some reasonable Excuse, to be allowed of by two Justices of the Peace; and what Defaults they shall find, they shall the next Sunday after Sermon ended, give publick Notice of in the Parish Church; and if the same be not amended within thirty Days after, such Surveyors shall within thirty Days amend the same, and dispose of the Annoyances for the Repair of the Highways, and shall be re-imburfed their Charges by the Party who should have done the same, and in Case of Refusal by the Party to pay such Charges, the Surveyors shall apply themselves to a Justice of Peace, and upon Oath before him made of Notice to the Defaulter given, as aforesaid, the Surveyors shall be repaid such Charges as the Justices of the Peace shall think reasonable, to be levied, as aforesaid.

Justices to hold Sessions for Highways. 8. The Justices of Peace shall once in four Months hold a Special Sessions, and summon thereunto all the Surveyors of the Highways, and declare to them what they are obliged to do by virtue of this or any other former A&t, after which the Sur-

Surveyors shall make a Presentment to them upon Oath, of the State of the Highways, within their respective Parishes, &c. and what Offences and Neglects any are guilty of: And before any Surveyor be discharged of his Office, he shall at some such Special Sessions give an Account upon Oath, of all Money that *Accounts* has come to his Hands which ought to be of *Surveyors*, employed in amending the Highways, and how it has been disposed; and if any remain in his Hands, he shall deliver it to the next Surveyors, or in Case of Failure shall forfeit double the Value, to be levied and disposed, as aforesaid.

9. Surveyors neglecting their Duty in any Thing required by this Act, shall forfeit for every Offence 40*s.* to be levied and disposed, as aforesaid.

10. If any Justice of Peace shall neglect or refuse to do what this Act requires, he shall forfeit 5*l.* one Moiety to the Prosecutor, the other to be employed for the Amending of the Highways where the Person who sues shall inhabit, to be recovered in any of his Majesty's Courts of Records by Action of Debt, &c.

11. Surveyors of the Highways, where *Ditches* the Ditches and Drains already made, are *and Drains* not sufficient to carry off the Water, may make new ones through the Lands adjoining, and keep them open, and come upon the Grounds with Workmen for so doing.

12. Upon Notice given by the Surveyors to the Justices at their special Sessions, and Oath made of what Sums they have expended in repairing the Highways, the Justices, or any two of them, may by Warrant cause an equal Rate to

be made to re-imburse them, where they are forced to lay out their Money, according to the Methods prescrib'd in an A&t made the 43d of Eliz. entituled, *An Act for the better Relief of the Poor of this Kingdom*; and if any refuse to pay what shall be assed on him, the Surveyors shall levy the same by Distress or Sale of Goods.

13. No Fine, Issue, Penalty or Forfeiture for not amending Highways, shall be return'd into the Exchequer, or other Court, but shall be levied into the Hands of the Surveyors, to be applied towards the Amendment of such Highways: And if any such Fine, &c. imposed on any Parish, &c. for not Repairing the Highways, shall be levied on one or more of the Inhabitants, upon Complaint to the Justices of the Peace, at their Special Sessions; they, or any two of them, may by Warrant cause a Rate to be made to re-imburse them, which the Surveyors shall levy and pay within a Month after the Making thereof.

*Breadth
of Ways.*

14. The Surveyors shall make every Cart-way leading to any Market-Town eight Foot wide at leat, and as near as may be, level.

15. Inhabitants within the weekly Bills of Mortality, Brewers, Scavengers, and others employed in carrying away the Dirt and Soil of the Streets, &c. may use any Cart or Dray with Wheels shod with Iron, and narrower than six Inches in the Fellies, and drawn with more than two Horses, any A&t, Law or Usage to the Contrary notwithstanding.

*Rates and
Assess-
ments.*

16. Where the Justices of the Peace at their General Quarter-Sessions shall be satisfied,

satisfied, that the Highways, &c. cannot be sufficiently amended without the Help of this A&t, Assessments upon Persons, usually rateable to the Poor, shall be made and levied by such Persons, and in such Manner, as the Justices at such Sessions shall direct and appoint, the Money to be raised, to be employed according to their Orders for repairing the Highways, &c. The said Assessments, if not paid within ten Days after Demand, to be levied by Distress and Sale of Goods, rendering the Overplus, Charges deducted.

17. No such Assessments to be made in any one Year, shall exceed 6 d. in the Pound of the yearly Value of Lands, &c. nor of 6 d. for 20*l.* in the personal Estate.

18. If any Person find themselves aggrieved by such Assessments, or any A&t of the Justices of Peace, the Justices of Peace, at their General Quarter-Sessions, shall take Order therein, which shall conclude all Parties.

19. None shall be punished for any Of. Punishment against this A&t, unless he be prosecuted within six Months after the Offence *this A&t.* committed, nor shall any Person punished by Virtue of this A&t, be punished for the same Offence by virtue of any former Law.

20. No Horse-Causey shall be under three Foot in Breadth.

21. The Justices of the Peace of Middlesex, may at their Quarter-Sessions make Rates for paving Kensington, in such Manner as is directed by an A&t made in the second Year of their Majesties Reigns, for Paving and Cleansing the Streets of London and Westminster.

22. All Matters concerning Highways, &c. shall be determined in the County where they lie, and not elsewhere; and no Presentment, Indictment, or Order made by virtue of this Act, shall be removed by *Certiorari* out of the County.

Stat. 8 &c. Also by the Stat. 8 & 9 W. 3. cap. 16. 9 W. 3. for enlarging common Highways, it is enacted:

Highways 1. That the Justices of the Peace of *enlarg'd* by any County, City, &c. or the major Part *Justices.* of them (five at least) at their Quarter-Sessions, may enlarge or widen any Highways in their respective Counties, &c. so that the Ground to be taken into the said Highways, do not exceed eight Yards in Breadth, and that they do not pull down any House, nor take away any Ground from Garden, Orchard, Court, or Yard.

2. For Satisfaction of the Owners, the said Justices shall impanel a Jury, and administer an Oath to them, that they will assess such Damages and Recompence to the Owners, or other interested in the Ground (not exceeding twenty-five Years Purchase) as they shall think reasonable, &c. and upon Payment of the said Money so awarded, or leaving it in the Hands of the Clerk of the Peace of the County, for the Use of the Owner; the Interest of the said Owner shall be divested out of him, and the said Ground shall be esteemed a publick Highway to all Intents whatsoever.

3. And the said Justices shall order Assessments to be made and levied upon all such Persons that ought to repair the said Highways, and the Money thereby raised shall be employed towards purchasing the Land

Land to enlarge the said Highways, and making Ditches and Fences. The said Assessments to be levied by the Overseers of the Highways, by Distress and Sale of Goods, if not paid within ten Days after Demand.

4. No such Assessment shall, in one Year, exceed the Rate of 6 d. in the Pound for Lands, nor 6 d. in the Pound for personal Estate.

5. The said Justices, at the Request of any Person for enlarging Highways, shall at their Quarter-Sessions issue out their Precepts to the Owners of Ground to be laid to the said Highways, to appear and shew Cause why the said Highways should not be enlarged.

6. After an Order of Decree is made *Decrees for* for the laying out of Ground for enlarging Highways, the Owner hath Liberty in *Ways*. eight Months after, to cut down any Wood or Timber growing upon the said Ground, or upon Neglect, the Justice shall sell it, and deliver to the Owner the Value.

7. Persons aggrieved by Order of the Justices, may appeal to the Judges of Assize at the next Assize only, who may affirm or reverse the same; and if they see Cause to affirm, to award Costs against the Appellant.

8. Where any common Highway shall be enclosed after a Writ of *Ad quod Damnum* issued and executed, any Person injured or aggrieved by such Inclosure may complain to the Justices at the Quarter-Sessions next after such Inquisition, who may hear and finally determine the same, &c. but if no such Appeal be made, then the said Inquisition and Return recorded by

by the Clerk of the Peace, to be for ever binding.

Posts erected with Inscriptions in Cross-Ways. 9. Justices of Peace at their respective Special Sessions to be held by virtue of the Statute 3 & 4 W. & M. (Chap. 12.) in such Cases as they shall think necessary, shall direct their Precepts to the Surveyors of the Highways, where two or more cross Highways meet, requiring them to erect, where such Ways join, a Stone or Post with an Inscription, directing to the next Market-Town, to which each of the said Cross-Ways leads ; and in Case the Surveyor or Surveyors neglect or refuse so to do, for the Space of three Months, every such Offender shall forfeit 10 s. to be levied by Warrant of one Justice, directed to the Constable, requiring him to distrain and sell the Goods of such Offender, and employ the Money to the said Purpose.

Stat. 7 & 8 W. 3. By Stat. 7 & 8 W. 3. cap. 29. it is enacted :

1. That every Owner of any Waggon, Cart, Carriages, Horse, Beast, or Oxen, offending contrary to this Act, shall forfeit 40 s. to the Surveyor or Surveyors of the Parish, Town or Village, where the Offence shall be committed, which Forfeitures shall be levied in such Manner, as the Penalties imposed by the Act made 22 Car. 2. cap. 12. are directed and appointed, and no otherwise ; and the said Surveyors shall receive the said Forfeitures, and pay in and account for the same upon Oath, to the Justices of Peace, at their Special Sessions, holden once in four Months, pursuant to the Act made 2 & 3 W. & M. the same to be employed in the Repairs of the Highways, where such For-

Forfeitures were committed, and no otherwise.

2. That after the first Day of *August* 96. Travelling no travelling Waggon, Wain or Carriage, *Waggons,* wherein any Burdens or Goods are carried for Hire, and other than such as are employed about Husbandry, and in carrying Hay, Straw, Corn unthrash'd, Coals, Stones, Timber, Materials for Building, Ammunition, Artillery, (or shall be for the King's Service) shall at one Time be drawn in any common Highway, with above eight Horses, or eight Oxen and one Horse, or six Oxen and two Horses, or two Oxen and six Horses, or four Oxen and four Horses; which said Horses and Oxen shall draw in Pairs with a Pole between the Wheel-Horses, and the other Horses to draw in a Line with the Wheel-Horses or Oxen, in such Manner as they draw in Coaches, upon Pain that every Owner of such Waggon, Wain, Cart, Carriage, Horse or Oxen, shall forfeit 40*s.* two third Parts to the Use of the Highways, the other to the Informer, to be levied by Distress of any of the said Horses, which after three Days may be sold.

3. That of any Liberty, Preeinct or Vill, that uses to repair their own Highways, shall be levied and employed the Rate of 6*d.* in the Pound for the Repairs, and if that be not sufficient, the Justices at their next Special Sessions, may order the Parish to contribute to the said Repairs.

4. That any Person, having in his Possession any Wood-Land or other Land of *Land.* • 50*l. per Annum* Value, shall be deemed to have a Plough-Land, to all or any of the Purposes

Purposes within any Statute concerning the Highway.

Removing Posts, &c. 5. That after the 24th of June, every Person who shall pull up, cut down, or remove any Post, Block, great Stone, Bank of Earth, or other Security, set up or made for securing Horse-Causeys, or Foot-Causeys, from Waggon, Wains, or Carts, shall (upon Complaint to a Justice of Peace, by the Oath of one Witness) forfeit 20 s. one Moiety to the Surveyors of the Highways, to be employed in the Repairs of the same, the other to him that shall discover the same, to be levied as aforesaid.

New Act, 1 Geo. By 1 Geo. cap. 48. At the Sessions held by Justices for Repairing the Highways, the Justices may order the Reparation of those Great Roads, which most want Repairing in the Hundred, to be first repaired, and in what Time and Manner.

Neglects of Surveyors. Surveyors of the Highways not viewing the Roads, &c. every four Months, and presenting such Ways as are out of Repair at the Special Sessions, forfeit 5 l. unless two Justices allow their Excuse.

Rates. Rates and Assessments for Repairing Highways, may be made, notwithstanding the six Days Work requir'd by former Statutes be not perform'd.

Scouring Ditches. Persons who delay to scour and keep open Ditches near the Highways, 30 Days after Notice given by the Surveyors to do it, forfeit 2 s. 6 d. for every eight Yards of Ditching not scoured, &c. To be levied by Distress.

If in scouring Ditches, any Person shall lay Soil in the Highway, and not carry it away within Eight Days after Notice

Notice, he forfeits not exceeding 5*l.* nor under 20*s.*

Justices in their Special Sessions may *Monies* examine on Oath any Person who can *apply*. give an Account of *Monies*, which ought to be applied for mending the Highways, and levy the Penalties, &c.

Surveyors neglecting to put the Laws in Execution for Repairing the Highways; or mis-applying Money rais'd for that Purpose, are liable to a Penalty of 5*l.*

By 5 Geo. travelling Waggons, &c. are *New Att*, to be drawn with six Horses in Length, 5 Geo. and no more, and Carts with three Horses, on Pain of forfeiting all Horses above *Travelling* that Number to the Person which seizes *Waggons*. and informs of the same.

And all travelling Waggons are to have the Wheels bound two Inches and a half broad, or the Owners and Drivers are liable to the same Penalty.

* Hindering the Seizure incurs a Forfeiture of 10*l.*

A D D E N D A

F O R

Constables.

Several Things may be observ'd before, in what is mentioned concerning Surveyors. Also observe further; That,

BY Stat. 3 & 4 W. & M. cap. 10. the Constable, Headborough and Tithingmen, by a Justice's Warrant, may enter and search, as for stoln Goods, the Houses or other Place, of suspected Persons; and if any Venison or Skins of Deer or Toyles be found, shall carry such Offender before a Justice of Peace; and if he cannot give a good Account how he came by them, he shall be subject to the Penalties hereby for killing a Deer.

And by Stat. 4 & 5 W. & M. for Game, cap. 23. By which all Laws and Statutes in Force for Preservation of the Game, not hereby altered, &c. are confirmed, Constables, &c. by a Justice's Warrant may, and are required to enter into and search Houses of suspected Persons, not quali-

qualified, as by the Act for the more effectual Discovery and Punishment of Deer-stealers is provided.

Also note, That by Stat. 9 & 10 W. 3. cap. 27. For licensing Hawkers, and Peddlars, a Constable may demand the Sight of their Licences, and if they refuse to shew it, they shall forfeit 5 l. to the Use of the Poor of the Parish where such Demand shall be made, and for Non-payment, shall suffer as a common Vagrant, and be sent to the House of Correction.

Also, if any Constable or other Officer refuse or neglect to be assisting in the Execution of this Act, being thereunto required, such Officer being thereof convicted upon Oath before a Justice of Peace, shall forfeit for every such Offence 40 s. to be levied by Distress and Sale of Goods. One Moiety to the Poor of the Parish, the other to the Prosecutor, rendering the Overplus.

There may be several other Things said, in which the Constable is concern'd to act by Warrant, &c. And of the Nature and Effect of Warrants of Justices, &c. of which I shall in this Place take some Notice.

A War-

*A Warrant, or rather Summons,
for making a new Constable,
&c. to be sworn before the
Justices of the Peace.*

This Summons is directed to the Person elected, or intended to be elected, thus:

A. B. of C. Yeoman.

These are to require you, to make your Appearance before us, or some other Justice of the Peace of this County, to take the Oath of a Constable, (or Titlingman) to serve within your Town of C. you being chosen and ordered by the Leet of your Town, to undertake the same Office: And herein fail you not, as you will answer the contrary, &c.

Or thus:

Whereas A. B. of your Town, the New Constable thereof, is (by Reason of his Age and Impotency) very unable and insufficient to execute the said Place; These are to require you, whose Names are here under written, to be before me at my House at C. to morrow (or such other Time as is convenient) by ten of the Clock in the Morning, that I may make Choice of one of you to be Sworn, to undertake the said Office. And hereof, &c.
Dated, &c.

Note, This Swearing of Constables, &c. by the Justices, is only in Case of Neces-

Necessity, for otherwise it belongs to the Quarter-Sessions, or Leet.

And tho' it may not be necessary for Concerning the Justices to put their Seals to these Hand and Summons, which are directed to the Par- Seal to a ties themselves, not obliging them to act Warrant. upon any other Person or Thing; yet note, That there is a Necessity that the Justice of Peace do subscribe his Name to his Warrant, commanding an Officer to act upon some other Person or Thing; tho' to put his Seal in every Case is not required: For in a Warrant of the Peace, or Good Behaviour it is thought not to be needful, nor where an Act of Parliament saith, That the Justice by Warrant (or by Warrant under his Hand) may do such a Thing: But where the Law says, that he may or shall do it by Warrant under his Hand and Seal, there it must be under his Hand and Seal, or it is not good. And it is now usual and most safe for a Justice to put his Seal to every Warrant after this Manner, *And hereof fail not at your Perils.*

Given under our Hands and Seals [or my Day and Hand and Seal, as the Case may be] this Year of first Day of January, in the Tenth Year of our making Sovereign Lord King George, Annoque Dom. the War-
1723.
rant.

Or thus:

Sealed with our Seals [or sealed with my Seal] and dated the first Day of January, in the Tenth Year, &c. Annoque Dom. 1723.

Note, That if the Warrant express the Place where it was made; as [Dated at D. and given under my Hand, &c.] though it was

was not really dated there; yet the Warrant is good, and shall be taken to be dated where the Warrant doth say it was dated.

The Rules that have been observed to the Compleating a Justice's Warrant, whereby he commands an inferior Officer to do something belonging to his Office, are as follow :

Rules.

First, That the Warrant must be plain and clear, and not ambiguous and doubtful, so that the Officer need not be forc'd to enquire what the Justice means.

Secondly, That it be compleatly fill'd up, and not left with Blanks in it.

Thirdly, The usual Form of the Warrant begins thus :

These are in his Majesty's Name to require you, &c. though it is sufficient to say, *These are to require you;* Howbeit the Warrant doth carry the more Authority with it when these Words are used in it.

Fourthly, The Title of Direction may either be above the Warrant thus ;

To the Constable of Dale.

Or in the Body of the Warrant thus :

A. B. Esq; &c. To the Constable of D. Whereas, &c.

Fifthly, The Warrant may be directed to any Officer, as the Sheriff, his Bailiffs, Constables, Tithingmen, &c.

Or, *To the Sheriffs, and to all Bailiffs, High Constables of Hundreds, and Constables and Tithingmen of Towns and Parishes within*

in the County of A. and every of them jointly and severally.

Or, it may be directed to these Officers, and to others that are no Officers together.

Or to them, that are no Officers, alone, thus :

To A. B. and C. D. both of E. in the County of G. and to either of them.

But this must be understood of Warrants of the Peace, Good Behaviour, and such like Warrants, wherein the Justice of the Peace is left at Liberty, to direct his Warrant to whom he will. For if the Law doth direct him to whom to send his Warrant, (as divers Acts of Parliament do, some of them appointing him to direct his Warrant to the Constables, some to the Constables and Church-wardens, some to the Church-wardens, some to the Constables or Church-wardens, some to the Church-wardens and Overseers of the Poor) in this Case the Direction of the Statute must be punctually pursued; for it is dangerous to vary from it ever so little.

But where the Justice is left at Liberty, to direct it to whom he pleases, it hath been thought the best Way to direct it to a common and known Officer; which is the High Constable of the Hundred, or Constable of the Town, &c.

Sixthly, The Warrant for an Arrest may be, to require the Officer to bring the Offender before the Justice that makes the Warrant; or before him or some other Justice of the County, and either Way is good.

Seventh-

Seventhly, In every Warrant of the Peace or Good Behaviour, where Sureties are to be found, the Warrant ought to contain the special Cause or Matter, that the Party arrested may provide Sureties: But if it be for some great Crime, the Cause may be concealed.

Eighthly, In every Warrant to command an Officer to carry a Man to Gaol, 'tis usual to insert a Clause to the Gaoler at the End of the Warrant to this Purpose: *That you him convey to the common Gaol of this County, and him deliver to the Gaoler or his Deputy there, who are hereby required him to receive and detain, until he shall from thence be delivered by due Course of Law.*

And note, That 'tis usual, and a good Close of every Warrant sent to an Officer, to require him to give an Account how he had executed it, in this Manner: *And that you be then there with this Precept, to give us an Account of your Execution of it.* Or thus: *That you give me an Account within fourteen Days next following, of your Execution of my Warrant.*

Ninthly, Note, There is very little Difference between a Warrant of Commitment and a *Mittimus*; for both are to do one Thing, and they differ a little only in the Form.

Tenthly, Where a Statute doth give Power to a Justice of Peace, to compel Men to do any Thing, he may send his Warrant, to require them to come before him; and if they refuse, he may proceed at Law.

Eleventhly, The Justices of the Peace may send their Warrants for any Thing that doth relate to a Special Sessions, either to compel Appearance or Attendance there, or Execution of any Thing there done, under their own Hands, or by the Clerk of the Peace, as the Business of the Quarter-Sessions is done.

Twelfthly, Observe, That where a Statute is penned thus, that the Constables or Church-wardens (by a Warrant from a Justice of Peace) shall be enabled to do a Thing; in this Case the Justice may justify the Making of such Warrant.

Some Precedents of Warrants.

1. **W**Arrants and Precedents relating *Precedents* to the Exercise of the Office of of War-a Justice of Peace out of the General Servants, &c. sions, are of several Sorts, viz. They concern either *Treasons*, *Felonies*, *Misprisions*, *Præmunires*, *Forcible Entries*, *Forcible Detainers*, *Riots*, *Routs*, and *Unlawful Assemblies*, *Security of the Peace and Good Behaviour*, or other Misdemeanors or Offences of several Sorts.

2. As concerning *Treasons* and *Felonies*; upon *Information* made of any Treason or Felony committed, any one Justice of the Peace may direct his Warrant to the Sheriff, or to the High Constables or Petty Constables, or to all or any of them, to make Search for the Traitors or Felons, and also for stolen Goods.

The

The Form of a Warrant to apprehend a Traitor.

J. G. Esq; One of His Majesty's Justices of the Peace within the County of N. To the Sheriff of the said County, and to all High Constables, Petty Constables, and other his Majesty's Officers, greeting, &c. Whereas L. M. and R. S. are vehemently suspected to have committed Treason, whereof I have received Information: These are therefore in his Majesty's Name freightly to charge and command you, and every of you, upon Sight hereof, without Delay, within your several Bailiwicks, Hundreds, and Constablewicks, to make diligent Search for the Bodies of the said L. M. and R. S. and them, and either of them so found, to arrest and attach, and immediately upon such Arrest, to bring before me at my House at B. in the said County: Whereof fail not at your Peril. Sealed with my Seal, and dated the seventh Day of M. in the Tenth Year of the Reign of our Sovereign Lord King George, &c.

The like Warrant may be made for the Apprehension of Felons.

A Warrant for keeping the Peace.

Essex ss. A. B. and C. D. Esquires, To the Sheriff of the same County, and to all High Constables and Petty Constables, and other Ministers and Officers appointed to keep the Peace within the same County, Greeting: Whereas we are inform'd, that there is a great Meeting appointed to be had at E. within

within this County, upon the first Day of February next, under Pretence of a Fair, then and there to be kept, [or, under Pretence of a Cock-fighting to be there had, or under Pretence of a Race to be there run, and the like] when and where, by Occasion or under Colour thereof, it is suspected there may be some notorious Breach of the Peace, by a Fray, Riot, Insurrection, or otherwise; for the Preventing whereof and the Keeping of the Peace; Those are to authorize and require you, and every of you, that calling to your Assistance and Aid such a Number of Persons as you shall think fit; all which Persons are by us required to assist you, and that you be then and there provided during the same Meeting; and by all the lawful Ways and Means you can, see the publick Peace be kept and preserved, and the Breakers and Disturbers thereof punish'd: And hereof, and to give us an Account of your Doings herein, within fourteen Days after the same Day be past, you are not to fail at your Peril. Given under our Hands and Seals at S. within the same County, the first Day of, &c.

Note, That whatever the Justices of the Peace may do; or the Sheriff or Constable ought to do, in Order to the Keeping of the Peace; the Justices may, by such a Warrant as this is, command them to do.

A Mittimus for Felony to the Gaol.

Middlesex ss. **A.** B. and C. D. Esquires,
A. two of the Justices, &c.
 To the Keeper of the Gaol of Newgate, or his Deputy there being: We send you herewithal the Bodies of E. F. and G. H. charged be-

H fore

fore us by J. K. of L. in the County of M. with robbing him on Monday last, and the Taking of ten Pounds from his Person, which the said E. F. and G. H. upon their Examination confessed.

Note, If the Felon upon Examination confess the Felony, the *Mittimus* must say so; for then he is not bailable.

Or thus:

Who stands charged before us upon the Suspicion of stealing six Sheep, being the Goods of N. O.

Or thus:

Who is charged before us with a Suspicion of a certain Felony by him committed, as it is said, [or otherwise, as the Case is] Commanding you to receive the same E. F. and G. H. into the said Gaol, and them there safely to keep, until they shall be from thence delivered by due Order and Course of Law: Hereof fail you not at your Peril. Given under our Hands and Seals at P. in the said County, the first Day, &c.

Note, That in every *Mittimus* Care must be had to set down the Offence, and the Manner and Time of Punishment.

A Mit-

**A Mittimus of a dangerous Rogue
to Bridewel.**

Glouc. ss. **A.** B. and C. D. &c. To the Master or Governour of the House of Correction, or his Deputy there. Whereas J. S. sturdy Vagrant Beggar, was this Day brought before the Constable of D. and charged, as well with Begging and idle wandring abroad, as also with other disorderly Behaviour ; so as he appeareth to us, to be dangerous to the inferiour Sort of People, contrary to the Laws of the Nation in that Case provided : These are therefore to require you to receive the said J. S. into your Custody, and him safely to keep in your House of Correction until the next Quarter³ Sessions, to be holden for this County ; and that during all the Time he shall continue with you, and be in his good Health, you do hold him to work, and punish him by putting Fetteres upon him, and by moderate Whipping of him ; and that you give him no more for his Maintenance, than what he shall deserve or earn by his Labour ; and that you have the said J. S. and this Precept at the said next Quarter-Sessions.

A Passport.

Sussex ss. **A.** B. one of his Majesty's Justices of the Peace in the County aforesaid ; To all Constables, Bailiffs, and other of his Majesty's Officers of the same County, and to every of them, Greeting : Forasmuch as the Bearer hereof C. D. being brought into great Poverty and Necessity, bath a Desire to travel unto the City of E. in the County of F. where he saith he was born, and bath some

Friends yet living, by whose Means he hopeth to be relieved: In Consideration whereof know ye, That I the said A. B. have licenced the same C. D. to travel and pass the directt Way from G. into the said City of E. so that his Journey be not of longer or further Continuance than twenty Days next after the Date hereof, desiring you, and every of you, to permit, and also to aid and relieve the said C. D. in his Journey, so that he shew himself in no respect offensive to his Majesty's Laws. In Witness whereof I have, &c.

Note, That in such a Passport the Party ought to be described, lest he make any other Partaker of the Use of his Passport; unless he be a Rogue, for then he always remains in the Constable's Hands.

A Warrant from the High Constable to make a privy Search in the Night for Whores, &c.

To the Constable, &c.

Middlesex ff. **B**Y virtue of a Warrant to me directed from his Majesty's Justices of the Peace of this County, within this Hundred of A. These are therefore (in his Majesty's Name) streightly to charge and command you forthwith upon Sight hereof, to make diligent Search and Enquiry after all Rogues, Vagabonds, and sturdy Beggars [upon Monday next in the Night of the same Day, being the 26th of this instant February] And all Persons that shall utter or sell any Beer or Ale without Licence of his Majesty's Justice of the Peace of this County,

County, and all such as keep suspected *Bawdy-houses*; and to appear before his Majesty's Justices of the Peace at *Hick's-Hall*, upon Thursday next, by eight of the Clock in the Forenoon, then and there to make a due and true Return of this Warrant, and to bring such Persons as you shall find upon your privy Search before his Majesty's Justices at the Time and Place aforesaid, to be dealt with according to Law: Hereof you are not to fail, as you will answer the Contrary at your Perils. Dated, &c.

A. B. High Constable.

A Warrant from a High Constable for a Petty Constable to appear and make Presentments to the Grand Jury, of Offences committed in his Parish and Precinct.

To the Constables, &c.

Middlesex ff. **B**Y virtue of a Warrant to me directed from the Gentlemen of the Grand Inquest, sworn and charged to enquire for our Sovereign Lord the King, and the Body of the County of *Middlesex*, within the Hundred of *D.* These are therefore (in his Majesty's Name) strightly to charge and command you upon Sight hereof to make your personal Appearance at the Court-House in *W.* upon Wednesday the eleventh Day of this instant *June*, by eight of the Clock in the Morning of the same Day, and to bring with you thither fairly written, together with the right Names, Callings,

and Places of Abode of the Parties, and when and where the Offences were done and committed, All Presentments of High and Petty Treasons, Murthers, Felonies, Manslaughters, Robberies, Thefts, Extortions in Officers taking unlawful Fees, or other Oppression, Deceits, Riots, Routs, unlawful Assenblies, Assaults, Batteries, Bloodshed, Rescuing of Prisoners, Conventicles forbidden by any Statute whatsoever, Defects and Abuses in Weights and Measures, Hues and Cries not prosecuted, Watches and Wards not kept, and against all Forrestallers, Regrators, Ingrossers, Champerties, unlicenced Alehouse-keepers, Drunkenness, Swearing, Blasphemies, disordered Houses, Disorders in Alehouses, Harbouring of Inmates, Incroachments upon Commons, Building of Cottages against the Statute, without laying of four Acres of Land thereunto, all Annoyances and Defaults in not repairing the Highways and Bridges, of Purprestures, of Incroachments in not cleansing the Streets, or in not paving the Streets, or not cleansing the Ditches or Common Sewers, and all Houses used for Incontinency or Bawdry, unlawful Haunters of Alehouses or Taverns, All Persons that are Popishly affected, And all Persons that prophane the Lord's Day, all Labourers or Jurors, and generally all Manner of Trespasses and Offences whatsoever, inquirable by you, and committed within your Parish and Precincts, to the end they may be proceeded against according to Law: And hereof you are not to fail, as you will answere the Contrary at your Perils. Dated the 7th Day of June, 1723.

A. B. High Constable.

*Articles to be presented by the High and Petty
Constables to the Grand Jury.*

IMprimis, You are to present all Petty Present-Treasons, Misprisions of Treason, all ments to Priests and Jesuits, and others that have the Grand received any Orders from the Church or Fury. See of Rome.

2. All Murders, Manslaughters, Robberies, Burglaries, Breaking of Houses in the Day-time, Felonies, Petty Larcenies, and the Accessaries thereunto, committed and done within your several Hundreds and Precincts.

3. You are to present all Popish and other Recusants that do not come to their several Parish-Churches within your Divisions.

4. You are to present all unlicenced Alehouse-keepers, and what disorderly Alehouses you have within your Divisions.

5. You are to present the Neglect of Hues and Cries, of and in whose Default.

6. You are to present all Highways and Bridges unrepaired within your Hundreds and Parishes, and who are to repair them.

7. You are to present all that erect Cottages, or that continue Cottages, not having four Acres of Land, to be occupied by the Inhabitants of the said Cottages within your Divisions.

8. You are to present all prophan Swearers and Cursers, within your Hundreds and Liberties.

9. You are to present all common Barrators, common Disturbers, Libellers, and others that break the King's Peace, all

Outcries and Bloodsheds that happen within your Liberties and Precincts.

10. You are to present all Forestallers, Regrators and Ingrossers, all Embracers of Juries, that you know of within your Hundreds and Precincts.

A Warrant upon not paying the Scavengers Rates.

To the Constables, &c.

*Midd. ff.
Two Ju-
nices.*

These are (in his Majesty's Name) to will and require you immediately upon Sight hereof to summon the Parties hereafter named, *A. B. C. D. E. F. G. H. I. K. L. M. &c.* personally to appear before us on Monday next, being the 20th Day of June, by Three of the Clock in the Afternoon at *A.* in *B.* then and there to shew Cause why they refuse to pay their Rates to the Scavengers for cleansing of the Parish of *B.* within the said County: And if they, or any of them, shall refuse to appear upon this our Summons: That then you bring such Parties before us, at the Time and Place aforesaid, to find Sureties for their Good Behaviour, and Personal Appearance at the next General Quarter-Sessions of the Peace for the said County of *M.* to answer the said Crimes: Hereof fail not, Given under our Hands this, *&c.*

An

*An Abstract of the Act 12 Ann.
for reducing the Laws relating
to Rogues, Vagabonds,
and sturdy Beggars.*

1. IT is enacted, That all Persons pretending themselves to be Patent-of a Rogue Gatherers, or Collectors for Prisons, Gaols, and Vagabonds, or Hospitals, and wandering abroad for that Purpose; all Fencers, Bear-wards, common Players of Interludes, Minstrels, Jugglers, all Persons pretending to be Gypsies, or wandering in the Habit or Form of counterfeit Egyptians, or pretending to have Skill in Physiognomy, Palmistry, or like crafty Science, or pretending to tell Fortunes, or like phantaſtical Imaginations, or using any subtle Craft, or unlawful Games or Plays, all Persons able in Body, who run away, and leave their Wives or Children to the Parish, and, not having wherewith otherwise to maintain themselves, use Loitering, and refuse to work for the usual and common Wages, and all other idle Persons wandering abroad and begging, (except Soldiers, Mariners or Sea-faring Men licenced under the Hand and Seal of some Justice of Peace, setting down the Time and Place of Landing, the Place to which, and the Time within which, they are to pass, while they continue in the direct Way, and during the Time so limited) shall be deeme'd Rogues and Vagabonds.

2. That if, after the first of August 1714 any such Rogue or Vagabond shall be found in any Parish, or Place, wandering, inhabitants.

dering, begging or misordering him or herself as aforesaid, it shall be lawful for the Constable or other Officer of such Parish, or any other there dwelling or being, to apprehend such Rogue or Vagabond, and convey him or her before some Justice of Peace in or near such Parish or Place. In Case the Constable or other Officer neglect to use his best Endeavour to apprehend such Rogue or Vagabond, it shall be deem'd a Neglect of his Duty. If any other Inhabitant of such Parish, being charged by a Justice of Peace or other lawful Authority, shall refuse or neglect to use his best Endeavour to apprehend and deliver to the Constable, or carry before a Justice of the Peace, where no Constable or other Officer can be found, any such Rogue or Vagabond, who shall be seen or known to resort to any House to beg or gather Alms, and found guilty by Oath of one or more credible Witnesses, before any Justice of Peace, forfeits 10 s. to the Poor of the same Place, to be levied by Distress. In Case any Person apprehend such Rogue or Vagabond and bring him before a Justice of Peace, the Justice may reward such Person by ordering, under his Hand and Seal, the Constable or other Officer where such Rogue was found begging and pass'd unapprehended, to pay 2 s. to the Person so apprehending. If the Constable, or other Officer, refuse Payment on Demand, the Justice by Warrant may levy 20 s. on such Constable or other Officer's Goods, and allow to the Person apprehending 2 s. and other Recompence for his Trouble, Loss of Time and Expences, as he shall think fit.

3. The Justices of Peace of every *Privy* County, City, &c. or any two of them, *Search for* some Time before the Quarter-Sessions, *Rogues.* or oftner, shall meet and command the Constables in their several Divisions (who shall be assisted with sufficient Men of the same Places) to make a general *Privy* Search in one Night, for Rogues, Vagabonds, and sturdy Beggars, and bring them before any Justice, or Justices of Peace of the same County, City, &c.

4. Where any Person apprehended in *Method of* any Manner aforesaid, is brought before *Proceeding* a Justice of Peace, he is to examine and *against* inform himself as well by the Oath and *Rogues.* Examination of the Party, as of any other Person, or by other Ways and Means, of the Condition and Circumstances of the Person apprehended, Place of Abode, or Birth, the Substance of which to be put in Writing, and subscrib'd or sign'd by the Party, and transmitted to the Quarter-Sessions, to be kept on Record; if it appear such Person hath obtained any legal Settlement, then to be sent to the Place of such last legal Settlement, in such Manner as other Persons likely to be chargeable to the Parish, are to be sent; if it cannot be found such Person hath gain'd any legal Settlement since Birth, then the Justice or Justices are by a Paſſ, under Hand and Seal directed to the Constable of the Parish, or Place where such Rogue or Vagabond was apprehended, taking Notice where and for what Cause apprehended, and whither and in what Time allow'd to pass) to cause such Person, of whatsoever Age, to be convey'd to Place of Birth; if under

the Age of fourteen Years, and have any Father or Mother living, to the Abode of such Father or Mother, if known ; if not known, then to the Parish or Place where found last begging, or misordering him or herself, and pass'd unapprehended, and there deliver'd to the Constable, or other Officer. The Form of which Pass is in the said Act.

May be whipp'd, &c. before sent. 5. If any Person who hath obtain'd a legal Settlement be found wandering and begging, and misordering him or herself, as aforesaid, they, and such as shall be apprehended as Rogues and Vagabonds, before they be pass'd, may, if the Justice think fit, be order'd to be openly whipp'd, or sent to the House of Correction, for hard Labour, at the Discretion of the Justice, and then immediately sent away ; which Punishment, or Conveying to the House of Correction, the Constable shall see executed.

Person taken upon Privy Search, how to be sent. 6. Such Persons apprehended upon a general Privy Search, having committed Acts of Vagrancy, and who have no fix'd Abode or Imployment in the Place apprehended, altho' they may have acquir'd a legal Settlement subsequent to their Birth, and be sent by two Justices of Peace, to last legal Settlement, yet the Charges to be born and defray'd in the same Method and Manner as passing Rogues and Vagabonds to Place of Birth. If the Justice shall see Cause to judge any Rogue or Vagabond to be dangerous to the People, and unlikely to be reform'd, he may commit him to the House of Correction, or common Gaol, for hard Labour, till the

If dangerous and incorrigible.

the next Quarter-Sessions, where, if adjudg'd a dangerous and incorrigible Rogue, he is to be publickly whipp'd three Market-Days successively, at some Market-Town near, and kept to hard Labour so long as the Justices shall think meet; if voluntarily break Prison and Escape, to suffer as a Felon.

7. Justices not to make a Pass for conveying Rogues or Vagabonds to Place of Birth before Examination, nor after, if it appear such Person hath a legal Settlement, since Birth, on Pain of forfeiting 5*l.*

8. Rogues and Vagabonds that refuse to be examin'd on Oath, or on Examination shall knowingly give any false or unsatisfactory Account thereof, being detected, shall be deem'd a dangerous and incorrigible Rogue, and punish'd as such; of which Punishment the Justice is to inform the Person examin'd.

9. The Justice or Justices who make a Pass for a Rogue or Vagabond to the Place of Birth, &c. shall, with the Pass, deliver to the Constable a Certificate ascertaining how such Person is to be convey'd by Horse, Cart, or on Foot, whither, in what Time, and what Allowance is to be made to the Constable, for conveying such Person to the Place he is to pass him to. The Form of which is in the Act.

10. The Constable who receives such Passes and Certificate, is to convey the Persons nam'd in such Pass the next direct Way to the Place order'd, if it be in the same

same County, Corporation, &c. keeping separate Quarter-Sessions wherein apprehended ; if it be not in the same County, Corporation, &c. then to the first Town of the County, Corporation, Franchise, &c. named in such Pass or Certificate, thro' which such Persons are to be conveyed in the direct Way to the Place whither they are to be sent, and there deliver them to the Constable, &c. of the said Place, or first Town, together with the Pass, taking Receipt of such Delivery upon the Certificate under the Hand or Mark of the Constable, or other Officer to whom delivered, and the Constable or other Officer to whom deliver'd shall receive such Vagrant, and sign Receipt, and apply to some Justice of Peace of his Precinct, who shall cause the Rogue or Vagabond to be stripp'd and openly whipp'd, or sent to the House of Correction, for hard Labour, for two or three Days, and afterwards convey'd with the former Pass, and a new Certificate in like Form, and so to be done from one County or Precinct to another, till brought to the Place first order'd to be sent.

11. No Constable is oblig'd to receive any Person by such Pass, unless it appear by the Pass, that such Person was whipp'd or sent to the House of Correction in the County, City, &c. thro' which last pass'd (except Women great with Child, Soldiers wanting Subsistence, having lawful Certificates from their Officers or Secretary at War, or such Persons as the Justices shall judge not able to undergo such Punishment) which shall be certified in the Pass.

12. Justices in their Quarter-Sessions to *Justices in limit, appoint and direct, what Rates or Quarter-Allowances per Mile, or otherwise, for Sessions ap-passing and maintaining Vagrants, and point Rates make Rules and Orders for the more regular Proceeding in their respective Limits; which Rates are to be observ'd by all other Justices, and others in the same Limits.*

13. In Quarter-Sessions, Justices may *Money, cause Money, as for County-Gaols and how to be Bridges, to be raised, for passing and raised. conveying, or maintaining Rogues and Vagabonds, as shall be necessary, to be paid to the chief Constable of each Division, in such Manner that he may have a quarterly Payment beforehand, who shall account for the same to the Treasurer or Treasurers of their respective County, City, &c. twice a Year, or oftner.*

14. Petty Constable bringing to chief *Petty Con-Constable such Certificate as aforesaid, stables how with the Receipt from the Constable or to be re-other Officer, to whom the Persons so to imbur's'd. be convey'd were delivered, and not otherwise, the chief Constable shall and may pay such Petty Constable the Allow-ances ascertain'd in such Certificate, and no more, taking the said Certificate and his Receipt, which Certificate and Receipt is to be allow'd the chief Constable in Dis-count, on his Account with the Treasurer.*

15. If Petty Constable, or other Officer, *Forfeiture counterfeit any Certificate or Receipt, or for Alter-alter any Sum therein, or shall not really tion of Sum convey the Vagrant, &c. forfeits 20 l. be- or not con-sidesveying.*

sides the Sum so fraudulently taken, one Moiety to the Poor, the other Moiety to the Informer, by Justices Warrant of Distress.

Examina- 16. Justices may examine a Constable or
tion of other Officer on Oath, whether he did
Constables. convey the Person he was ordered so to do, and to whom he delivered such Person; if he refuse, or if it appear he hath neglected his Duty, he shall lose the Allowance entituled to on such Certificate.

Persons. 17. The Parish or Place to which any conveyed, Rogue or Vagabond shall be sent, shall how to be employ in Work or Place in Work-house, employ'd at or Alms-house, such Persons, until they the Place betake themselves to some Service or Employment. If they refuse to work, Overseers to whither take them before a Justice of sent. Peace, to be sent to the House of Correction, for hard Labour: If a Parish shall not employ, but permit such Persons to escape or wander, and they be after taken wandering and begging, &c. the Justices where again apprehended, to compute the Charge the County shall be put to by the Apprehending, Punishing or Passing, &c. such Rogue or Vagabond, and such Money to be levied by Distress on any the Constables, Church-wardens or Overseers of the Poor so in Default. If in another County, then the Warrant ascertaining such Charge to be brought to some Justice of the same County, who is required to cause the same to be levied as aforesaid, which is to be for the Use of the Peace where the Charge is expended. Those, on whom the Money is levied, may put the same in their Rates, which shall be allow'd

allow'd by the Inhabitants. The Justices at Quarter-Sessions, where such Rogues, &c. are convey'd, may inquire of Neglect, and punish according to the Merit of Offence, and if any Person be found again wandering, begging, &c. any Justice may send him to the House of Correction for hard Labour till next Quarter-Sessions, and if such Person shall not then give Security for Good Behaviour for one Year, to be approv'd by the Justices, they may adjudge him a dangerous and incorrigible Rogue, and order him to be punish'd accordingly.

18. In Case any Person brought before *In what* a Justice of Peace, shall upon *Examina-* *Cases to* *tion* be found on Confession or Oath of *be bound* one Witness, to have obtain'd no legal Servants, Settlement since Birth, and hath commit- or sent bet- *any Act of Vagrancy, or to have used yond Sea* the Trade or Life of a common Beggar for seven or Vagabond for two Years past, although *Years*. he had formerly a Settlement, or to be a dangerous and incorrigible Rogue, the Justices, instead of punishing or passing as before, may, by Order under Hand and Seal, commit the Person to the Cu-
stody and Power of him who apprehended him, or, in Case of Refusal, to any other Person willing to receive him as Ap-
prentice or Servant for seven Years and no longer, and may be employ'd in such Servitude, either in *Great Britain* or the King's Plantations, or *British Factory* for seven Years.

19. No Person shall be transported be-
yond Sea until the Master or Mistress be
bound in 40*l.* that such Person be em-
ploy'd

ploy'd in his Majesty's Plantations or British Factory, and there supplied with Necessaries convenient, and at the End of seven Years, or sooner, to be discharged, and in the mean Time not to be sold to Aliens; the Justices to take Recognizance, and transmit the same to Quarter-Sessions.

*May Ap-
peal.*

20. Persons thinking themselves aggrieved by such Order, may appeal to Quarter-Sessions, and shall not be sent away till Sessions, but may in the mean Time be kept in the House of Correction if Justices think it necessary.

*Idle Per-
sons, blind,
lame, or
pretending
to be so,
how to be
dealt with.*

21. All loose, idle and disorderly Persons, blind, sons, Blind, Lame, or pretending to be so; lame, or with distorted Limbs, or pretending some bodily Infirmitie, placing themselves to beg in Streets, &c. to the Annoyance and Disturbance of Passengers, or who shall be found begging in that Part of Great Britain called England, upon Complaint made by two of the Inhabitants to the Constable, &c. of the Place, he shall forthwith cause the said Person to be removed. If such Person refuse to be removed, or offend a second time, the Constable shall cause him to be whipp'd till his Body be bloody; if a Constable refuse, on Oath of two Witnesses, within twenty four Hours, before a Justice of Peace, to forfeit 10 s. to the Poor, by Distress, &c.

*Poor Lu-
natics and by
mad Per-
sons, how
to be dealt
with.*

22. Persons of little or no Estates, who are furiously Mad, and dangerous to be permitted to go abroad, two Justices to cause to be apprehended and lock'd up, and, if Justices think fit, to be chain'd in the same County,

ty, &c. if Settlement there, or else to be sent to last Settlement as Vagrants, without Whipping; there to be kept as aforesaid, during Lunacy, Charges of Keeping out of the Lunatick's Estate, if any beyond Maintenance of his Family, otherwise to be provided for as the Poor of the Parish.

23. *Proviso*, not to abridge the Prerogative of the Crown, &c.

24, 25. Penalty on Masters of Ships bringing Rogues, Vagabonds, Beggars, or Persons likely to live by Begging, from *Ireland, Isle of Man, Jersey*, &c. or foreign Plantations, 5*l.* for every Rogue, &c.

26. A Power to compel Masters of Ships bound for *Ireland, Isle of Man, Jersey*, &c. to receive Vagrants passed and sent to any of those Places, on Forfeiture of 5*l.* to the Poor.

27. If any Constable or other Officer *Penalty on* fail of this Duty in the Apprehending, *Constable* Punishing, or Conveying of Rogues or failing of Vagabonds, or be otherwise defective, *re-his Duty*, miss or negligent in his Duty, or if any *Persons* Person shall hinder the Execution of the *binding* Act, rescous any such Apprehended, or *Execution*, assist an Escape, being convict, upon View &c. of Justice, or by Oath of one Witness, he forfeits 20*s.* to the Poor, to be levied by Distrefs.

28. Repeal of former Statutes, relating to Vagrants, &c.

29. A Saving of the Right of *John Dutten Esq;* &c.

An Abstract of the Rioters Act.

THAT if any Persons, to the Number of Twelve, or more, being unlawfully and riotously assembled together, to disturb the publick Peace, and being commanded to depart by any one Justice of the Peace, or Sheriff of the County, or Under-Sheriff, or by the Mayor, Baillif, or other Head-Officer, or Justice of the Peace of any City or Town-Corporate where such Assembly shall be; by Proclamation to be made in the King's Name, in these Words, or like in Effect (Our Sovereign Lord the King chargeth and commanded all Persons, being assembled, immediately to disperse themselves, and peaceably to depart to their Habitations, or to their lawful Business, upon the Pains contained in the Act made in the first Year of K. George, for preventing Tumults and riotous Assemblies) shall not disperse themselves, and peaceably depart to their Habitations and Callings, shall to the Number of Twelve, or more, riotously and tumultuously remain and continue together by the Space of one Hour, after such Command made by Proclamation, shall be adjudged Felony without Benefit of Clergy, and shall suffer Death as in such Cases; and all Justices of the Peace and other Officers aforesaid, are required on Notice of any such unlawful riotous Assemblies, to resort to the Place where such Assemblies shall be, there to make Proclamation as aforesaid: And in Case, after Proclamation

tion made, twelve or more shall continue together, and not disperse themselves within one Hour, that then it shall be lawful for every Justice, or other Officer aforesaid, and likewise for every High or Petty Constable, or other Peace-Officer within such County, and to and for such other Person as shall be commanded to be assisting to any such Officer, to seize such Person or Persons, and carry them before one of his Majesty's Justices of the County; and in Case any of the Rioters shall be killed or hurt in the Seizing of them, all such Person or Persons shall be indemnified, as well against the King's Majesty, as against all and every other Person or Persons, of, for, or concerning the Killing and Wounding any such Rioter: And in Case any such Rioters shall pull down or demolish any Place for religious Worship, or other Out-house or Houses, shall be adjudged Felony without Benefit of Clergy, and suffer Death as a Felon; and if any Person shall wilfully oppose or hurt any Person in making Proclamation, as aforesaid, shall be adjudged Felony, without Benefit of Clergy; and in Case any such House for religious Worship shall be pull'd down or demolish'd out of any City or Town, the Inhabitants of such Hundred shall be liable to make Good such Damages, and the Action may be laid on two or more of such Inhabitants, and brought in the Name of the Rector, Vicar, or Curate of such Church or Chapel that shall be so damnified; and all other Dwelling-houses or Out-houses so damnified, shall be made Good, and the Money recovered by Action

tion, as aforesaid, as by the Statute of the 27th of Queen Elizabeth, for Re-imburſing the Persons on whom any Money recovered against any Hundred, by any Party robbed, shall be levied.

This Act shall be openly read at every Quarter-Sessions, and at every Leet or Law-day. No Person shall be prosecuted by this Act, unless such Prosecution be commenced within twelve Months after the Offence.

An Abstract of the Act for punishing Robberies that shall be committed in Houses.

BE it enacted by the QUEEN's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That all and every Person or Persons that shall, at any Time, from and after the first Day of July, in the Year One thousand Seven hundred and thirteen, feloniously steal any Money, Goods, or Chattels, Wares or Merchandizes, of the Value of forty Shillings, or more, being in any Dwelling-house, or Out-house thereunto belonging, although such House or Out-house be not actually broken by such Offender: And although the Owner of such Goods, or any other Person or Persons,

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be or be not in such House or Out-house, or shall assist or aid any Person or Persons to commit any such Offence, being thereof convicted or attainted by Verdict or Confession, or being indicted thereof, shall stand Mute, or will not directly answer to the Indictment, or shall peremptorily Challenge above the Number of twenty return'd to be of the Jury, shall by virtue of this Act be absolutely debarred of, and from the Benefit of Clergy; any Law or Custom to the Contrary notwithstanding.

*An Abstract of the Act of the
7th of Queen Anne, for preventing
Mischiefs that may happen by Fire.*

THAT if any menial, or other Servant, through Negligence or Carelessness, shall fire, or cause to be fired, any Dwelling-house or Out-house, such Servant being thereof lawfully convicted by the Oath of one or more credible Witnesses, made before two or more of her Majesty's Justices of the Peace, shall forfeit and pay the Sum of One hundred Pounds unto the Churchwardens of such Parish where such Fire shall happen, to be distributed amongst the Sufferers by such Fire, in such Proportion as to the said Churchwardens shall seem just, and in Case of Default or

or Refusal to pay the same immediately after such Conviction, the same being lawfully demanded by the said Churchwardens, that then, and in such Case, such Servant shall by Warrant under the Hand of two or more of Her Majesty's Justices of the Peace, be committed to some Work-house or House of Correction, as the said Justices shall think fit, for the Space of eighteen Months, there to be kept to hard Labour.

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